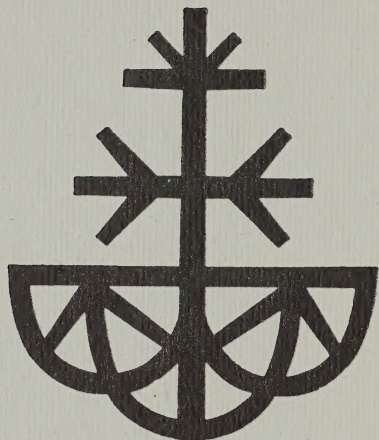




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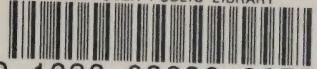




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# REPORT OF THE ROYAL COMMISSION

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## RECONVEYANCE OF LAND TO BRITISH COLUMBIA

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Pursuant to Order in Council of  
March 8, 1927



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REPORT OF  
THE ROYAL COMMISSION

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OTTAWA, CANADA, February 16, 1928.

The Hon. CHARLES STEWART,  
Minister of the Interior,  
Ottawa.

DEAR SIR,—I have the honour to hand you herewith the report of the Royal Commission, pursuant to Order in Council of 8th of March, 1927, P.C. 422, a copy of which is hereto attached.

I have the honour to be, sir,  
Your obedient servant,

(Sgd.) W. M. MARTIN,  
*Commissioner.*

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P.C. 422

*CERTIFIED to be a true copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 8th March, 1927.*

The Committee of the Privy Council, on the recommendation of the Minister of the Interior, advise that the Hon. W. M. Martin, of Regina, Saskatchewan, a Judge of the Court of Appeal of Saskatchewan, be appointed a Commissioner under the authority of Part 1 of the Inquiries Act, Chapter 104 of the Revised Statutes of Canada, 1906, to receive and inquire into the arguments of the Government of the Province of British Columbia in support of its claim for the reconveyance to the Province by the Government of Canada of the land conveyed by the Province to the Dominion pursuant to paragraph 11 of the terms of Union, and such evidence as may be material to the consideration of such claim by the Government of Canada, and to report his findings thereupon to Your Excellency in Council.

E. J. LEMAIRE,  
*Clerk of the Privy Council.*



## Report of Royal Commission on Reconveyance of Land to British Columbia

By Order of the Privy Council, approved by His Excellency the Governor General in Council on March 8, 1927, a commission was issued to me under the provisions of Part 1 of the Inquiries Act, Chapter 104 of the Revised Statutes of Canada, 1906: "To receive and inquire into the arguments of the Government of the Province of British Columbia in support of its claim for the reconveyance to the Province by the Government of Canada of the land conveyed by the Province to the Dominion pursuant to Paragraph 11 of the terms of Union."

Sessions of the commission were held in the city of Victoria in the week commencing June 20, 1927, for the purpose of hearing the case prepared by the province. The Dominion of Canada was represented by the Hon. L. A. Cannon, K.C., Solicitor General for Canada, and by Mr. A. B. Macdonald, K.C., of Vancouver, while the Province of British Columbia was represented by the Attorney General, the Hon. A. M. Manson, K.C., and Mr. C. W. Craig, K.C., of Vancouver.

The case for the province was very ably and exhaustively presented, and I desire to express my appreciation of the thorough and comprehensive treatment of the claims of the province by the Attorney General and Mr. Craig. The arguments advanced, and the material furnished in support thereof, covered every possible reason which, in my opinion, can be asserted in support of the return to the province of the Railway Belt and the Peace River lands, and left nothing to be desired from the standpoint of the interests of British Columbia. At the close of the sessions in Victoria, it was agreed that the case for the Dominion would be presented at Ottawa some time during the fall of 1927. Since then, however, the representatives of the Dominion and the province arranged that the case for the Dominion would be put in writing and forwarded to me, and that the province would have a right to reply if it so desired.

The subject for investigation is a limited one, and concerns only the question of whether or not there are reasons, either legal or based upon considerations of natural justice, why the Railway Belt along the line of the Canadian Pacific Railway, throughout its length in British Columbia, and the Peace River lands, consisting of three and one half million acres, should be restored by the Dominion of Canada to the province of British Columbia. The conclusion to be reached must depend, in so far as the legal position is concerned, upon the terms of Union; upon the statutes of Canada; upon the statutes of the province enacted with respect to the lands; upon any agreements made between the Dominion and the province, and upon records of any negotiations between the Governments, or their representatives, which help in the construction of the statutes and agreements. Consideration of the question on principles of natural justice must be of a wider character, and inquiry must be made as to the conditions existing at the time the province entered Confederation; as to the steps taken by the Dominion authorities of the day to implement the pledge on the part of the Dominion to build the railway; as to the policy of the Dominion Government in regard to the financing of the railway; as to the object of the construction of the railway, its national character, its benefit to the whole country and to British Columbia, and as to whether British Columbia has, in the light of subsequent events, been in any way penalized, when its position is compared with that of the other provinces.



Indeed consideration of what, under all the circumstances, would be fair to the province of British Columbia, demands that the whole question should be viewed in the broadest possible manner; in the light not only of conditions existing at the time, but also in the light of subsequent events, and the results achieved by the construction of the railway, which was no doubt built, not only to carry out the bargain of the Dominion with the province, but also with the object of binding together the scattered portions of British North America, and of creating one great united country owing allegiance to the British Crown.

The subject for investigation, therefore, involves matters largely of a legal and historical character. Parol evidence as to what actually transpired in negotiations between the two Governments leading to the entry of the province into Confederation, and as to what subsequently took place from the year 1870 to the year 1884, when the province enacted the final Statute dealing with the conveyance of the lands, is not available, for those who took part in the negotiations and, who would have the knowledge, are now deceased. Resort must be had to the statutes, orders in council, agreements, the debates in Parliament, and to statements of responsible public men of the day. For these reasons no good purpose could be served, and no light could have been thrown upon the subject, by calling anyone before the commission who might happen to be interested in the questions involved, and asking him for his opinion on matters of legal and historical import. Moreover the commission was not appointed to hear generally of any grievances which the people of British Columbia have, nor of any alleged burdens which they are called upon to bear; it was appointed to hear from the Government of the province reasons why the railway lands should be returned to the province and to report upon the claim of the province to these lands; a claim which was made in no uncertain terms by the late Hon. John Oliver, Prime Minister of the Province, speaking for his Government.

I refer to the scope and nature of the commission, because there appears to be an erroneous impression that the powers and duties of the commission are similar to those of the commission appointed by the Governor General in Council on April 7, 1926, on Maritime claims. Nothing could be further from the fact. The Maritimes commission was appointed to inquire into "the conditions and claims" of the people of the Maritime provinces, and to examine from a national standpoint "all the factors which peculiarly affect the economic position of the inhabitants" of these provinces. The scope of that commission was of the widest possible character; the scope of the commission issued to me is limited to one question, to one question alone, and it is a question of such a character that the opinions of individuals upon it can be of little assistance.

In order to obtain a proper understanding of the matters involved, and to appreciate the case submitted by the province, it is necessary to review some of the more important steps taken by the province and by the Dominion to carry out the contract made in 1870, when the province of British Columbia entered Confederation. To accurately obtain the necessary information recourse must be had to agreements made, to orders in council dealing with the subject and to statutes enacted by the legislature of the province and by the Parliament of Canada. I propose to refer to the more important agreements and enactments, commenting upon them where I deem it necessary.

By paragraph 11 of the terms of Union 1870 (Schedule "A") the Government of the Dominion undertook to secure the commencement simultaneously within two years from the date of the Union of the construction of a railway from the Pacific toward the Rocky mountains, to connect the seaboard of British Columbia with the railway system of Canada, and to secure the completion of such railway within ten years from the date of the Union. The Dominion Government further agreed to pay to British Columbia from the date of the Union the sum of \$100,000 per annum in half yearly payments in



advance. This payment of money is stated in paragraph 11 to be "in consideration of the land to be so conveyed in aid of the construction of the said railway." The province agreed that it would "convey to the Dominion in trust to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia (not to exceed, however, twenty (20) miles on each side of the said line) as may be appropriated for the same purpose by the Dominion Government from the public lands of the Northwest Territories and the province of Manitoba." Provision was also made that any lands, which, in the area in question, had been disposed of by pre-emption entry or by Crown grant should be replaced by conveying to the Dominion a similar area "from contiguous public lands." The Government of the province further agreed not to sell or alienate and further portions of the public lands of the province in any other way than under the right of pre-emption requiring actual residence on the part of the pre-emptor.

There appears to be no question but that the intention and the policy of the Dominion Government at the time of Union, and for some years subsequent thereto, was to make use of the public lands, including those to be conveyed by the province under the terms of Union, to largely defray the cost of the construction of the railway. This could have been done by making grants of land to any company which undertook the construction, or it might have been done by selling the lands, if this were possible, and using the moneys derived therefrom in defraying any outlay necessary on the part of the Dominion in carrying out its contract with the province. It was the intention to provide for the construction of the railway by granting alternate blocks of land along the railway throughout its entire length, and to obtain any moneys necessary to meet the outlay in cash by disposing of the alternate blocks remaining; thus there would be no increase in taxation. This is clear from the debates of the House of Commons in 1871 on the terms of Union, and also from the debates of 1872 on the Canadian Pacific Railway, 35 Victoria, chapter 71 (Schedule "B"). It also appears from the statements of responsible public men of the day that this intention was communicated to the representatives of the province when the terms of Union were discussed, and while section 11 says nothing as to any lands to be procured from the province of Ontario, there is no question but that there was a hope that the Government of that province would make a grant of lands to aid in the building of the railway within the boundaries of the province, the gift to consist of alternate blocks, the remaining blocks to remain the property of the province. It was stated in Parliament that this grant would amount to 9,000,000 acres, and the matter is specifically referred to in 35 Victoria, chapter 71. That the policy was to build the railway by the aid of huge grants of land, much larger than the grant finally made to the Canadian Pacific Railway by the statute of 1881, and by small cash subsidies without increasing taxation, is apparent from statements made in Parliament at the time the terms of Union were under discussion, and also when the first act with respect to the Canadian Pacific Railway was before Parliament. References to establish this fact might be multiplied indefinitely, but a few will suffice to demonstrate the intention of the Government of the day.

On the 28th of March, 1871, the Hon. Mr. Tilley is reported in *Hansard*, p. 669, as follows:—

"The line of railway would pass through magnificent lands, and the proposed grant would give 50,000,000 acres, leaving every alternate lot which could be converted into a sinking fund or some other mode for securing the amount of money granted, and taking into consideration the probable increase of population, the speedy settlement of the Northwest on its being opened up, and the increased paying ability, he had no fear, and the Government had no fear, that the people would be subjected to increase of taxation."

Sir Richard Cartwright on March 28, 1871, *Hansard*, p. 680:—

"Then the Government proposed to give to this railway a grant of land amounting to 100,000 square miles. He believed that if the people of British Columbia, who had shown such a liberal spirit in these negotiations, were informed that it would be physically impossible for the Dominion to undertake the construction of a railway at a cost of from \$100,000,000 and complete it within ten years, they would consent to a modification of the terms proposed in this House. He was strongly in favour of the Union, and was willing to go as far as could safely be done to consummate Confederation by the admission of the colony into the Dominion, but the House should be careful before risking the safety of Confederation by incurring a burden of debt under which they might sink."

The Hon. Edward Blake, March 28, 1871, *Hansard*, p. 682:—

"But the Honourable Minister of Militia did not propose to increase the taxation of the country. Honourable members opposite had stated that they were willing to give 60,000,000 acres of land to aid the railway, and to pay off the interest on the debt incurred by the railway by the sale of land in the Northwest."

On the same day Sir George Cartier is reported in *Hansard* on p. 662 and 663 as follows:—

"It was not the intention of the Government to construct the road, but it would be undertaken by companies to be assisted mainly by land grants. It was not the intention of the Government to burden the exchequer much to obtain the railway. While this clause was under discussion between the delegates and the Government it was proposed by the Dominion that the colony should hand over a forty mile strip of land towards the construction of the railway.—It was proposed to give the colony \$100,000 per annum, which, placing the interest at 5 per cent would be the annual interest on the value of 2,000,000 acres of land. The railway starting from Nipissing would be about 2,500 miles, 700 miles of which would pass through Ontario. They did not expect to get entirely the 20 mile grant on each side of the road but they expected to get from the Ontario Government every alternate lot on each side of the line for that seven hundred miles—that would give 9,000,000 acres of land from the Ontario Government—But whatever it would cost he would assure the House that there would be no taxation on the country more than existed at present."

The Hon. Mr. Langevin on March 29, 1871, *Hansard*, p. 699:—

"With regard to the railway he urged that there was no comparison between the Inter-colonial and the Pacific road because it would not be undertaken by the Government but by a company upon the basis of a liberal land grant and an annual payment of money within the means of Canada and without augmenting its debt."

Mr. Morris on the 30th March, 1871, *Hansard*, p. 714:—

"The railway had been spoken of as a rare bargain to induce British Columbia to enter the Union, whereas that work was of more importance to Canada than it was to British Columbia for, having already acquired the great Northwest they were compelled by force of circumstances to go forward and render it a valuable acquisition and he was convinced that if the House turned its back on British Columbia by adopting the amendment of the member for Lambton it would do a grievous injury to the cause of Confederation, which might prove irreparable. The present position of Canada was analogous to that of the States some years ago when that country recognizing the importance and necessity of communication from one side of its territory to the other, both as a bond of union between the people of the East and the West, and as a means of securing the vast trade between Europe and Asia had taken steps, which, in a short time, would result in three different lines from the Atlantic to the Pacific, and the reasons that had urged America should be equally powerful in Canada, and he believed the Canadian line could be constructed in a satisfactory manner by means of the proposed land grant without in the least degree overburdening the people."

Sir Francis Hincks on March 30, 1871, *Hansard*, p. 722.—

"No one had answered the argument that the railway was not entirely a bargain with British Columbia, for if that colony had not consented to join the Union would not a railway to the Rocky mountains still have been a necessity?"

The Hon. Mr. Tilley, March 31, 1871, *Hansard*, p. 751:—

"In reply to the arguments of the Hon. members opposite he said that a grant of \$10,000 per mile in addition to the land grant would place the construction of the railway beyond the possibility of a doubt. There could be no difficulty in disposing of the lands at a fair price."



Sir George Cartier, March 31, 1871, *Hansard*, p. 749:—

"The Government had stated again and again that they themselves would not build the railway, but that it would be constructed by companies assisted by such subsidies as would not oppress the people."

And again on April 1, 1871, *Hansard*, p. 763:—

"The Government intended and determined that this great railway should be carried out by companies and not by the Government, and through the means principally of land grants and small money subsidies."

Sir A. T. Galt, April 1, 1871, *Hansard*, p. 763:—

"He desired before the final passage to place on record an explanation of the terms under which the address was understood to be adopted. The Government had stated as a reason why these terms should be accepted, that it was not their intention to undertake the whole cost of the railway out of the money reserves of the Dominion, but that they proposed to do it through the intervention of companies to whom they would be prepared to give subsidies of land and money and further that this was the understanding between themselves and the delegates from British Columbia."

Hon. Mr. Campbell, April 3, 1871, *Hansard*, p. 777:—

"In Ontario it is expected that alternate sections of 20 miles will be given for the construction of the road whereas British Columbia gives a continuous grant of 20 miles on each side."

And again on April 3, 1871, *Hansard*, p. 780:—

"The information we have been able to get from men competent to speak on the subject leads us to believe that the road can be built with the free grants and the aid of a small subsidy. We believe besides the land grant the Dominion need only give a subsidy ranging from \$7,000 to \$10,000 a mile."

The resolution which was before Parliament at the time the statements referred to were made speaks for itself, and is as follows:—

"Resolved that the railway referred to in the address to Her Majesty concerning the Union of British Columbia with Canada, adopted by the House on Saturday the 1st of April instant, should be constructed and worked by private enterprise and not by the Dominion Government; and that the public aid to be given to secure that undertaking should consist of such liberal grants of land and such subsidy in money or other aid, not unduly pressing on the industry and resources of the Dominion as the Parliament of Canada shall hereafter determine."

On April 3, 1871, p. 797 of the Parliamentary Debates, the Hon. Mr. Miller stated in the Senate:—

"A railway across the Continent on British soil was as much an Imperial as a Dominion necessity. There was no doubt that England so regarded it. The leading minds of the Empire had unmistakably given their opinion on the high national character of the work."

The Hon. Mr. MacPherson in the Senate on April 3, 1871, p. 810:—

"The Dominion agrees to pay an annual subsidy of \$35,000 as in the case of the other provinces; also 80 cents per head equivalent to \$48,000. These sums amount to only \$83,000, which is evidently altogether inadequate to meet the local needs of the colony. Therefore it was found necessary to supplement that amount by \$100,000—no very extravagant sum certainly. If, instead of \$35,000, it had been shown that British Columbia required \$135,000 to maintain her provincial services and make such local improvements as she would require, this country could not have objected to give it, and, that too without receiving any equivalent in the shape of land. Instead of that, however, the Government of the Dominion has stipulated that a strip of land forty miles wide should be given along the route of the proposed railway in British Columbia—"

The Hon. Mr. Chapais on April 4, 1871, *Hansard*, p. 844:—

"If our neighbours can thus construct a railway of 2,000 miles long by means of grants of land only, I ask why should we not be able to do the same with an addition of a moderate subsidy in cash?"—"Here is what we may expect from the arrangement entered into. The road is to be 2,500 miles long—twenty miles on each side of the road will make sixty-four million acres."

Hon. Mr. Smith on April 4, 1871, *Hansard*, p. 858:—

"I said then where are these seventy-five million acres to come from; but I see the Government have promised to give 64,000,000 acres of land to assist the construction of the road. Then the Government propose to give \$10,000 per mile or \$25,000,000 as a subsidy, which, added to the value of land, will meet the estimated cost of the whole work."

Hon. Mr. Reesor on April 4, 1871, *Hansard*, p. 865:—

"The intention of the Government was to offer to private companies grants of land in alternate sections of twenty miles on either side of the proposed line of road with a cash subsidy of from seven to ten thousand dollars per mile, and the limit of ten years was named as indicating that every reasonable offer would be made to complete the work within that time."

Hon. Mr. Mitchell on April 4, 1871, *Hansard*, p. 872:—

"The expectation of the Government is that twenty miles of land on each side of the road throughout its entire length should be set aside for the construction of this work—of this reserve the company should be offered one-half thereof in alternate blocks on each side of the railway."

Hon. Mr. Christie on April 5, 1871, *Hansard*, p. 906:—

"My Honourable friend the Postmaster General, speaking of the land grant said that it was expected that the province of Ontario would give some 9,000,000 of acres. Without discussing the quality of the land I would ask what guarantee have we that the Government and Legislature of the province of Ontario will give that grant."

Statements indicating what was the policy of the Government of the day could be multiplied if necessary, but the ones referred to are sufficient to show what the intention was when the terms of Union were settled in 1870, and when the subject was before Parliament for discussion in the spring of 1871. A perusal of the debates leads to the following conclusions:—

1. It was the intention to build the railway chiefly out of lands and with the addition of small cash subsidies.
2. A twenty mile strip on either side of the road throughout its entire length was to be set aside and alternate blocks given to the railway by way of subsidy, and the remaining blocks set aside for sale or other disposition and the proceeds used to compensate the Dominion for the money subsidies.
3. The British Columbia delegates were made familiar with the policy when the terms of Union were discussed.
4. A land grant was expected from the province of Ontario along the line through that province.
5. The land granted by the province of British Columbia was used as an argument to obtain support for the enterprise in the other provinces of Canada.
6. The construction of the railway was looked upon generally as for the benefit of British Columbia although some did stress its national and even imperial character.
7. The sum of \$100,000 stated in the terms of Union to be paid to British Columbia for the lands to be conveyed was admitted by some to be compensation for only a portion of the lands, and others went so far as to hint that the same was really intended as an additional grant to the Province to enable it to carry on its necessary services.

On the 7th day of May, 1872, a resolution was moved by Sir George Cartier which sets out clearly the policy of the Government of the day with respect to the construction of the railway. That resolution is reported in *Hansard*, pp. 419 and 420, and is as follows:—

"That the land grant to such company to secure the construction and working of the railway shall not exceed fifty million acres, in blocks of twenty miles in depth on each side of the line of the railway in Manitoba, the Northwest Territories and British Columbia, alternating with blocks of like depth reserved for the Government of the Dominion, and to be sold by it, and the proceeds of such sale applied towards reimbursing to the Dominion the sums expended by it on the construction of the said railway; such lands to be granted



from time to time as any portion of the railway is completed, in proportion to the length, difficulty of construction, and cost of such portion; and in Ontario such land grant to be subject to the arrangement which may be made in that behalf by the Government of the Dominion with the Government of that Province; provided, that, if the total quantity of land in the alternate blocks to be so granted to the company should be less than fifty million acres, then the Government may, in its discretion, grant to the company such additional quantity of land elsewhere as will make up such alternate blocks and quantity not exceeding fifty million acres; and in the case of such additional grant, a quantity of land elsewhere, equal to such additional grant, shall be reserved and disposed of by the Government for the same purposes as the alternate blocks to be reserved as aforesaid by the Government on the line of the railway."

Then followed the Act with respect to the Canadian Pacific Railway, 35 Victoria, chapter 71, assented to on June 14, 1872. The preamble to the Act recited section 11 of the terms of Union, and set forth the fact that the House of Commons had resolved that the railway should be constructed by private enterprise and not by the Government, and that the public aid to be given should consist of such liberal grants of land and such subsidy in money as the Parliament of Canada should thereafter determine not increasing the rate of taxation. The Act then provided that the railway should be worked by private enterprise and not by the Government, and should be commenced within two years from the 20th day of July, 1871, the date that British Columbia became a province of Canada, and should be completed within ten years from the said date. It was also provided that the land grant should not exceed fifty million acres, and in the provinces of Manitoba and British Columbia and in the Northwest Territories might be equal to but should not exceed what would be contained in blocks not exceeding twenty miles in depth on each side of the railway alternating with other blocks of a like depth on each side thereof to be reserved by the Dominion Government for the purposes of the Act and sold by it, and the proceeds thereof applied towards reimbursing the Dominion any sums expended under the Act. It was also provided that if the land in the alternate blocks was not equal to 50,000,000 acres an additional quantity of land might be granted elsewhere to make up the amount. The land grant expected from the province of Ontario was referred to as follows:—

"In the province of Ontario the land grant to the company for the purposes aforesaid shall be such as the Government of the Dominion may be enabled to make under arrangement with the Government of the province of Ontario."

Provision was also made for a cash subsidy not exceeding thirty million dollars—the cost of certain surveys which had been made by the Government of Canada in 1871 and 1872 to be allowed by the company as a part of the subsidy.

In 1874 a statute was enacted, 37 Victoria, chapter 14, assented to on the 26th day of May, 1874 (Schedule 'C'), entitled, An Act to provide for the construction of the Canadian Pacific Railway. The preamble to the Act recited section 11 of the terms of Union, and stated that the House of Commons had resolved that the railway should be constructed by private enterprise, and that the public aid to be given should consist of such liberal grants of land and such subsidy in money not increasing the rate of taxation as the Parliament of Canada should determine. The Act then provided that a railway to be called the Canadian Pacific Railway should be built from some point near to and south of lake Nipissing to some point in British Columbia on the Pacific ocean; both of the said points to be determined by the Governor in Council. Provision was made that the whole line should be divided into four sections and the Governor in Council was given power to subdivide the sections and to contract with any person or company for the construction of any section of subsection of the said railway including all the works connected therewith, and all rolling stock required to work the same and for the working of the same, on

such terms as the Governor in Council might determine, subject to the provisions of the Act. It was further provided that the sum of \$10,000 per mile should be paid the contractors as the work progressed by monthly payments in proportion to the work actually done, and that no further sum should be payable to the contractors as principal—other than money derived from the sale of lands as subsequently provided for in the Act—but that interest at the rate of four per cent per annum for twenty-five years from the completion of the work should be paid on a sum (to be stated in the contract) for each mile of the section or subsection contracted for. As to the public lands, provision was made that a quantity of land not exceeding 20,000 acres for each mile contracted for should be appropriated in alternate sections of 20 square miles each along the line of railway, and that two-thirds of the quantity of land so appropriated should be sold by the Government as might from time to time be agreed upon between the Governor in Council and the contractors and the proceeds thereof paid half-yearly to the contractors free from any charge for administration, and the remaining one-third of the land conveyed to the contractors. It was also provided that the section or subsection of the railway when completed should be the property of the contractors and should be worked by and for the advantage of the contractors under such regulations as might from time to time be made by the Governor in Council in regard to rates chargeable for passengers and freight, the number and description of trains and accommodation for freight and passengers. Provisions was made for the purchase by the Government of Canada from the contractors of any section or subsection of the railway at the actual cost of construction plus ten per cent—the subsidies of land or money granted or paid by the Government to be first returned or deducted from the amount to be paid. The Governor in Council was also given power to construct the railway or any portion thereof as a public work if it were found more advantageous to do so, such construction to be by contract offered to public competition.

The Act of 1874 when compared with that of 1872 shows a marked change of policy in some respects. There still, however, remained the desire to construct the railway largely out of lands and without increasing the rate of taxation. The main difference between the two Acts consists in the provision enabling the Governor in Council to construct the railway or any portion thereof as a public work. It was very doubtful at the time whether the Government would be successful in procuring the construction of the road by private enterprise, and it was thought wise to provide that portions of it might be constructed as a Government undertaking. The people of British Columbia already were growing dissatisfied with the delays which had taken place in the commencing of the work, unrest and dissatisfaction existed and a large section of the people and public men of Eastern Canada continued to hold the view that the building of the railway was impossible of fulfilment for many years to come.

That the agreement of 1871 contained in Section 11 of the terms of Union was "quite impracticable of fulfilment" was the view of the Government of Canada in 1875 appears in a report to the Privy Council dated the 20th of September in that year (Schedule 'D'). Mr. Edgar had been sent to British Columbia on behalf of the Dominion in 1874 with the object of obtaining the consent of the Government of British Columbia to the giving up of the limitation of time stated in the terms of Union, and in return for this concession the Government of Canada would agree to spend one and one half million dollars per year upon construction within the Province in each year after the location of the road and would build a waggon road along the proposed line preceding railway construction, it was also proposed to build a railway on Vancouver island from Esquimalt to Nanaimo. These propositions seem to have been rejected by British Columbia, and an appeal was made to the Imperial Government invoking



their intervention. The result was that the Right Honourable Lord Carnarvon, Secretary of State for the Colonies, offered his services to promote a settlement. The Government of Canada agreed to accept such services and a Minute of Council of July 23, 1874, states "that Lord Carnarvon be informed that they would gladly submit the question to him for his decision as to whether the exertions of the Government, the diligence shown and the offers made have or have not been fair and just and in accordance with the spirit of the agreement." Lord Carnarvon on August 16, 1874, made certain suggestions to the effect that the amount of yearly expenditure in the province after location should not be less than two million dollars; that the period of completion should be the year 1890, and that the railway from Esquimalt to Nanaimo should be at once commenced. As to Lord Carnarvon's suggestions the Government of Canada took the position that the whole line could not be completed by the time mentioned, but stated that the portion of the line west of lake Superior could be completed to afford connection by rail with existing lines of railway through a portion of the United States and by Canadian waters during the season of navigation. The Government, however, did agree to spend two millions in each year in British Columbia after location, and to build the railway from Esquimalt to Nanaimo. They continued to point out, however, that the whole scheme was based upon the resolution of Parliament in 1871, repeated in the Act of 1872, and also in the Act of 1874, in which it was stated that the undertaking should be carried on without increasing the then existing rate of taxation.

The railway from Esquimalt appears to have been proposed as a compensation for the disappointment experienced by the delay in constructing the railway across the continent and to benefit local interests. The Bill introduced in the Commons to provide for its building was defeated in the Senate, and it became necessary for the Government to consider other means of satisfying the people of British Columbia in regard to it. It was finally decided to recommend to Parliament the payment to British Columbia of the sum of \$750,000 as compensation for the delays which had taken place, such sum to be used by the province towards the local railway or such other local works as the Legislature might undertake.

On September 3, 1878, the Dominion Government passed an Order in Council (Schedule "E") in which it referred to the terms of Union and the covenant of the province to convey to the Dominion the lands along the railway in trust, to the fact that several Orders in Council had been passed withdrawing the necessary public lands from settlement and sale along the line of railway in Manitoba and the Northwest Territories pending the appropriation thereof for the purposes of the said railway and stated that the Government of British Columbia should be called upon to convey to the Dominion the lands agreed to be conveyed by the terms of Union. The Order in Council further recommended that all the public lands in Manitoba and the Northwest Territories within twenty miles on each side of the line of railway be set aside for the purpose of the Canadian Pacific Railway and be appropriated in such manner as the Dominion Government might deem advisable in furtherance of the construction of the railway. The Government of British Columbia was also requested to make good out of contiguous public lands the quantity which was held under preemption right or by Crown Grant within the limits of the tract of land to be conveyed to the Dominion.

On the 10th of May, 1879, Sir Charles Tupper submitted a resolution to Parliament to provide for the immediate construction of the Canadian Pacific Railway (Schedule "F"). According to the resolution one hundred million acres of land were to be appropriated and vested in commissioners; the appropriation was to include all ungranted lands belonging to the Dominion within twenty miles of the line, and in case of deficiency, lands of a fair quality were

to be provided elsewhere. The commissioners were to sell the lands at not less than \$2 per acre and invest the proceeds in Canadian Government securities to be held exclusively for the purpose of defraying the cost of the railway. Sir John A. MacDonald in speaking on the resolution stated that the Government expected the railway to be built "without the cost of a farthing to Canada" believing that "the hundred million acres which we desire to appropriate—will be amply sufficient for the purpose of recouping the overtaxed people of Canada". The resolution was adopted by Parliament on May 12, 1879, and shows that the Government had fully resumed the position of 1872 of paying for the railway out of the proceeds of public lands. Nothing is stated in the resolution as to an actual land subsidy, the intention apparently being that the land should be sold and the proceeds used for construction. Statements made in Parliament, however, indicated that the intention of a land subsidy still existed. The contents of the resolution are important as showing again the policy of 1871 and 1872 when the province entered Confederation, and that was that the road should be built without adding to the burdens of the people. No statute, however, was passed enacting the resolution in the form of law, and any force it might have had was entirely removed when the contract with the Canadian Pacific Railway was made in 1880 and enacted in law in 1881. No action was ever taken to carry out the terms of the resolution and no contract was ever entered into on the basis of its provisions.

On December 10, 1880, a contract for the construction of the Canadian Pacific Railway was submitted to Parliament; this contract was subsequently enacted by statute 44 Victoria, chapter 1 (Schedule "G"), assented to on February 15, 1881. (Hansard, 1880, December 10, page 28.) In the course of the discussion on the contract, its respective merits as compared with the legislation enacted in 1874 under the previous Government were discussed in great detail, and it again appears from the debates that the belief was that moneys to be derived from the public lands would prevent the railway from becoming a burden on the Canadian people.

The statute of 1881 recited:—

1. That the terms of Union with British Columbia placed upon the Dominion the obligation of causing a railway to be constructed connecting the seaboard of British Columbia with the railway system of Canada.

2. That Parliament had repeatedly declared a preference for the construction and operation by an incorporated company aided by grants of money and land, and that certain Statutes had been passed to enable that course to be followed but the enactments had not been effectual for that purpose.

3. That certain sections of the railway had been constructed by the Government and that others were in the course of construction, but the greater portion of the main line had not yet been commenced or placed under contract, and that it was necessary for the development of the Northwest and for the preservation of the good faith of the Government in connection with its obligations that immediate steps be taken to complete and operate the whole of the railway.

4. That a contract had been entered into for the construction of the said portion of the main line and for the permanent working of the whole line, and that it was expedient to ratify and approve the contract.

It is then enacted that the contract which forms a schedule to the Act be approved and ratified. Provision was made for the granting to the company of a subsidy of \$25,000,000 and 25,000,000 acres of land upon the terms and conditions set out in the contract, and it was provided that on the completion of the contract the Government might convey to the company those portions of the Canadian Pacific Railway which had been constructed or which were



agreed by the said contract to be constructed by the Government. The agreement provided that the cash subsidy should be paid and the land subsidy granted as the work of construction proceeded and in accordance with the terms of the agreement. The subsidy of money was divided by the agreement and appropriated as follows:—

*Central Section*—assumed at 1,350 miles—

1. 900 miles at \$10,000 per mile.. . . .	\$9,000,000	
2. 450 miles at \$13,333 per mile.. . . .	6,000,000	
		<hr/>
		\$15,000,000

*Eastern Section*—assumed at 650 miles—

15,384.61 per mile.. . . .	10,000,000	
		<hr/>
		\$25,000,000

The land subsidy was divided and appropriated as follows:—

*Central Section*—

1. 900 miles at 12,500 acres per mile.. . . .	\$11,250,000	
2. 450 miles at 16,666.66 acres per mile.. . . .	7,500,000	
		<hr/>
		18,750,000

*Eastern Section*—

650 miles at 9,615.35 acres per mile.. . . .	6,250,000	
		<hr/>
		\$25,000,000

The provision in the agreement with respect to the grant of lands is as follows:—

“The grant of lands hereby agreed to be made to the company shall be so made in alternate sections of 640 acres each, extending back 24 miles deep on each side of the railway from Winnipeg to Jasper House—in so far as such lands shall be vested in the Government—the company receiving the sections bearing uneven numbers.”

The agreement also provided that if any of such sections consisted in a material degree of land not fairly fit for settlement, the deficiency might be made up from other lands in the fertile belt lying between parallels 49 and 57 degrees of North latitude and extending back 24 miles on either side of any branch line or lines of railway to be located by the company. The terminal points of the railway were definitely stated and the company was given power to construct branch lines, the Government to grant the company the roadbed and lands required for stations and workshops. Exemption from taxation was granted the company on all its property, rolling stock and works, and as to the lands of the company in the Northwest Territories it was provided “until they are either sold or occupied shall be free from such taxation for twenty years after the grant thereof from the Crown.”

In considering the statute of 1881 it should be observed:—

1. The contract ratified by the Statute contains the agreement under which the Canadian Pacific Railway was built and completed.

2. It contains the provisions as to the land grant which was ultimately given to the company.

3. No lands in British Columbia were appropriated as a portion of the land grant; all the lands granted were in Manitoba, and the Northwest Territories.

4. No provision was made for the sale of alternate blocks of land, and the devoting of the proceeds to the building of the railway, as was the case in the legislation of 1872, the reason no doubt being that by this time the policy of using Dominion lands for the granting of homesteads and the encouraging of settlement had become fairly well established.

5. The Acts of the Legislature of British Columbia of 1883 and 1884 under which the Railway Belt and the Peace River Block were conveyed by the province to the Dominion were enacted subsequently to the Dominion Statute of 1881, and the province at the time of these enactments must be taken to have had knowledge of the Statute of the Dominion Parliament.

The Dominion Government agreed to complete the Lake Superior section extending from lake Superior to Selkirk by the dates fixed by existing contracts for the construction thereof, and agreed to complete the portion of the Western section then under contract, namely, from Kamloops to Yale by the 30th day of June, 1885, and to cause to be completed on or before May 1, 1891, the remaining portions of the Western section, namely, from Yale to Port Moody. It was also provided that the portions of the road constructed or to be constructed by the Government were on completion to be conveyed to and become the absolute property of the Canadian Pacific Railway Company.

I can find nothing to explain why no appropriation was made of any of the lands along the line of railway in the province of British Columbia, which lands the Province had agreed to convey in trust in furtherance of the construction of the railway. At the time, however, the question of the worthlessness of some of these lands for agricultural purposes had been raised by the Dominion authorities, and no arrangement had at the time been reached to meet the objection. It may be that the Dominion Government did not feel that it was in a position to deal with the lands, or on the other hand it may be that the railway company was not prepared to accept as a part of the land grant any of the land along the line of railway in the province of British Columbia. This, however, must remain a matter of conjecture, and the fact is that the railway was completed without the appropriation of any land in the province of British Columbia; no grant of land was ever made by the province of Ontario and all the lands appropriated for the purpose were along the line of railway between Winnipeg and the Rocky mountains largely in fact within the territory which is now the province of Saskatchewan and the province of Alberta.

In 1880 certain negotiations took place between the Dominion Government and the Government of the province. On April 4 of that year Mr. Joseph W. Trutch as agent for the Dominion, and who at that time was located in the city of Victoria, wrote the Attorney General of the time, Mr. George A. Walkem, and stated:—

“There is reason to believe that the character of the land for a very considerable distance along the line of the Canadian Pacific Railway as located in British Columbia, is such as to be altogether unsuited for agricultural purposes and therefore valueless for the object contemplated at the time the province was admitted into Confederation, which was that the lands proposed to be transferred should be laid out and sold to aid in the construction of the road.”

Reference was then made to section 11 of the terms of Union and Mr. Trutch continued as follows:—

“In view of the statement made in the preceding paragraph it now becomes necessary that an understanding be arrived at with the Government of the province by which the Dominion may receive an equal area of lands available for farming or economical purposes in lieu of the lands which on investigation may be found unavailable in the forty mile belt and the Dominion Government urgently requests the concurrence of the Government of British Columbia in the following arrangements: i.e. that such territory situated within the forty mile belt referred to in the section of the “Terms and Conditions” above quoted as may be found on a thorough examination and investigation useless for farming or other valuable purposes may not be regarded as properly forming part of the land consideration to be received by the Dominion, but that the same be eliminated from the area in the belt described and that an equal area of land suitable for farming or other valuable purposes be selected elsewhere in the Province in lieu thereof. The area to be selected outside the belt should in addition include a quantity of land to represent that in the Fraser River Valley or elsewhere along or in the vicinity of the railway line which may be found to have been already disposed of by the Province or with regard to which valid claims may be preferred as also



to cover the deficiency caused by the International Boundary on the mainland and the coast line on Vancouver island respectively falling within the forty mile belt."

"The Dominion Government cannot doubt that the Provincial Government will consider itself pledged in good faith in view of the whole circumstances and of the actual money consideration stipulated for in the section of the "Terms and Conditions" above cited, and which has been regularly paid, to place the Dominion Government in possession of land elsewhere in lieu of the corresponding area within the railway belt which may be found to be useless for agricultural or other valuable purposes."

Mr. Trutch conducted his negotiations under the authority of an Order in Council of February 25, 1880. Having received no reply he again wrote the Attorney General on April 24, 1880, and asked for a reply to his letter of the 14th. On April 26 the Attorney General wrote Mr. Trutch and promised a reply the same week, and on May 4 wrote him enclosing a copy of an Order in Council of the same date. This Order in Council was in part as follows:—

"The Committee consider that although the obligations of the Dominion Government have not been complied with, yet in view of the railway locations made on the mainland and the contracts let for construction there, it is advisable that a transfer by Statute be made to the Dominion of the belt of land referred to, under and subject to the terms of Union.

"With reference to the application made through Mr. Trutch the committee would observe that without conceding the principle involved in it, viz., that the province is pledged under the terms of Union to grant the Dominion tracts of valuable land outside in lieu of valueless lands inside the belt mentioned, the application should, in the event of railway work being actually prosecuted, receive a liberal consideration. It is, however, a question of much too indefinite a character for one of such magnitude to be immediately disposed of.

"It is therefore suggested that the Dominion Government be requested:—

"1. To define the lands which they might consider valueless for agricultural or other economic purposes.

"2. To indicate the lands which they might secure in lieu thereof.

"3. To state how they propose to deal with such lands if ceded to them, the committee deeming it essential that this should be done in order to prevent as far as possible an extension of the serious injury and loss already sustained by the Province by the withdrawal from settlement since June, 1873, by special request of the Dominion of a valuable tract of 3,200 square miles of land on Vancouver Island for railway purposes.

"4. To inform the Provincial Government of the nature of the guarantees that they are willing to give that railway work on the mainland will be continuously and actively prosecuted—."

Following this Order in Council a statute, chapter 11 of 1880 (Schedule "H") was passed by the legislature and assented to on May 8 of that year. The Act was entitled "An Act to grant public lands on the mainland to the Dominion in aid of the Canadian Pacific Railway." By this statute it was enacted:—

"There shall be and there is hereby granted to the Dominion Government for the purpose of constructing and to aid in the construction of the portion of the Canadian Pacific Railway line located between Burrard Inlet and Yellow Head Summit, in trust, to appropriated in such manner as the Dominion Government may deem advisable, a similar extent of public lands along the line of railway before mentioned (not to exceed 20 miles on each side of the said railway) as may be appropriated for the same purpose by the Dominion from the public lands of the Northwest Territories and the Province of Manitoba, as provided in the Order in Council, section 11, admitting the Province of British Columbia into Confederation."

Mr. Trutch having received the copy of the Order in Council of May 4, 1880, on May 5 wrote the Attorney General as follows.—

"The views of the Government of British Columbia expressed in that Order in Council appear to me to intimate plainly the definite refusal of the Provincial Government to concede, for the present at least, the special requests preferred by me on behalf of the Dominion Government. If this is the conclusion of the Provincial Government I can only deeply regret it. It would be unavailing for me now to comment at any length on the conditions which, as especially the fourth condition stated in the Order in Council, appear to be stipulated for by the Provincial Government as requirements necessarily precedent to the request of the Dominion Government receiving a liberal consideration.

"I deem it my duty, however, to point out at once,—

"(1) The two first conditions imposed are clearly impossible of fulfilment for years to come, that is to say, not until the Dominion Government could itself have acquired as the results of actual survey, the information which the Provincial Government asks now to be furnished with.

"(2) That the third condition is already virtually fulfilled by the recent statements in Parliament of the Right Honourable Minister of the Interior defining the system on which the Dominion railway lands in the Northwest are now being dealt with, which system, modified only to suit the special topographical requirements of the country, is intended to be extended over British Columbia—."

It will be observed that in the Order in Council of May 4, 1880, the Government of the province took the view that there was no obligation on the province to grant to the Dominion valuable lands outside, in lieu of alleged worthless lands in the railway belt. This view was undoubtedly correct. The Government, however, was prepared to give the application of the Dominion a liberal consideration if work on the railway should be actively prosecuted, and in so far as the railway belt was concerned, was prepared to transfer it at once to the Dominion. The railway belt was conveyed by the statute of the legislature of 1880, and the obligations of the province under the terms of Union with respect to the conveyance of lands were fulfilled. The Government of the province might, if it so desired, have refused to comply with the request of the Dominion to allot valuable lands elsewhere, but as subsequent events show, they did not do so, but finally agreed to comply with the request and convey to the Dominion a tract of lands known as the Peace River Block and consisting of 3,500,00 acres.

While the Act of the Dominion Parliament ratifying the agreement with the Canadian Pacific Railway Company was assented to on February 15, 1881, great dissatisfaction continued to exist among the residents of British Columbia, due to the delays in construction of the main line and due also to the settlement suggested by Lord Carnarvon not being carried out, for on March 25, 1881, the Legislative Assembly of British Columbia drew up a petition for presentation to Her Majesty Queen Victoria complaining bitterly of the grievances which the province was called upon to bear. (Schedule "1"). This petition stated that the province had been induced to enter into Confederation by a promise on the part of the Dominion to complete the railway on or before July, 1881; it referred to the petition of 1874, and to the intervention of Lord Carnarvon, and to his suggestion as to the completion of the railway from Nanaimo to Esquimalt, the expenditure of two million dollars annually on the railway within the province, and as to the completion of the railway on or before December 31, 1890. It referred to the total disregard of the Dominion with respect to these suggestions, and stated that the Legislative Assembly had petitioned Her Majesty early in the session of 1876 asking that the Dominion carry out the agreement; that in reply Her Majesty had asked that the province submit to railway construction being deferred until the spring of 1878 in order to settle doubtful points with respect to the railway route; that as the Dominion had failed to commence construction in August, 1878, the Legislative Assembly further petitioned Her Majesty on August 30, 1878; that in the spring of 1880 construction was commenced by the Dominion in the interior of the province, but not from the seaboard or between Esquimalt and Nanaimo; that arrangements had recently been made between the Dominion and a syndicate for the construction of the Canadian Pacific railway by 1891, which arrangements included 500 miles north of lake Superior but excluded the section of 70 miles between Esquimalt and Nanaimo; that under the Treaty of Union it was agreed that construction should be commenced from the seaboard of the province and under the settlement of 1874 it was agreed that the section of the railway between Esquimalt and Nanaimo should be completed with dispatch and that construction of the line north of



lake Superior should be deferred until the completion of the railway from the seaboard of the province to lake Superior; that by the Treaty of Union the province was allowed to retain its own tariff until the railway should be completed, but believing in the good faith of the Dominion it surrendered its tariff in 1872, and that since that time the tariff of the Dominion had been increased to the serious injury of British Columbia; and finally, that while the railway was to have been completed by July, 1881, no portion of the railway had as yet been commenced in the province. The petition then asked that the Dominion Government be moved to carry out its obligations by constructing the line from Esquimalt to Nanaimo, and the portion of the line between Port Moody and Yale, and that compensation be awarded the province for the losses inflicted upon it by reason of the delays and breaches of the agreement.

This petition sets out fully the grievances of the province at the time with respect to the delays in carrying out the terms of Union, and shows the attitude of the people of the province as to what was considered very unfair treatment. This was the condition from 1874 to 1883, and it was only in 1883 and 1884 that the difficulties were disposed of. On February 10, 1883, the Government of the province by Order in Council dealt with the Graving Dock at Esquimalt, railway lands generally and the Island Railway. In dealing with the railway lands reference was made to the letter of Joseph W. Trutch of April 14, 1880, above referred to, and the reply of the Provincial Government thereto. The report to Council stated:—

"It is admitted that a very considerable portion of the lands included in the railway belt and of lands contiguous to these lands which have been dealt with by the province, consists of impassable mountains and rocky lands useless for agricultural purposes. The committee feel satisfied that a settlement of this question will conduce to the best interests of the province and enable the country to be settled up."

On May 5, 1883, Joseph W. Trutch addressed a letter to the Hon. W. Smithe (Schedule "J"), which letter is set out in the Sessional Papers of British Columbia, 1883, page 458. This letter was written as the result of a telegram received by Mr. Trutch from the Prime Minister of Canada, and contained proposals from the Government of Canada requesting the Government of British Columbia to amend chapter 11 of the Statutes of British Columbia of 1880 under the terms of which the railway belt had been conveyed. The most important proposal was that the province of British Columbia should convey to the province of Canada three and one-half million acres of land of fair quality in the Peace River District of British Columbia in one rectangular block adjoining the Northwest Territories of Canada. The province was also requested to grant to the Government of Canada certain lands on Vancouver island and the Dominion on its part was to appropriate the sum of \$750,000 for the construction of the railway from Esquimalt to Nanaimo, purchase from the Government of British Columbia the Esquimalt Graving Dock and offer for sale with all convenient speed to actual settlers the lands within the railway belt. It was also suggested in the communication that if the Government of British Columbia accepted the terms and ratified such acceptance by Act of the Legislature, the acceptance should constitute a settlement of all claims of British Columbia against the Government of Canada. To this offer the Government of British Columbia replied setting forth the terms they desired as a settlement, and these terms are referred to in a report of the Privy Council of May 9, 1883, reported in the Sessional Papers of British Columbia, 1884, page 157 (Schedule "K"). It is not necessary to refer to the contents of the report of the Privy Council in detail, suffice it to say that the Legislature of British Columbia by chapter 14 of the statutes of 1883 passed "An Act relating to the Island Railway, the Graving Dock and

the railway lands of the province", in which the fact is referred to in the preamble that negotiations had been taking place between the two Governments, and that an agreement had been reached which is set out fully in the Act, and which is stated to be in settlement of all claims. With respect to the railway lands it was enacted—

"From and after the passing of this Act there shall be and there is hereby granted to the Dominion Government for the purpose of constructing and to aid in the construction of the Canadian Pacific Railway on the mainland of British Columbia in trust to be appropriated as the Dominion Government may deem advisable, a similar extent of public lands along the line of railway before mentioned wherever it may be finally located (not to exceed twenty miles on each side of the said railway) as may be appropriated for the same purpose by the Dominion from the public lands of the Northwest Territories and the province of Manitoba, as provided in the Order in Council, section 11, admitting the province of British Columbia into Confederation."

Section 7 of the statute of 1883 deals with the Peace River Block and is as follows:—

"There is hereby granted to the Dominion Government three and a half million acres of land in that portion of the Peace River District of British Columbia lying east of the Rocky mountains and adjoining the Northwest Territories of Canada, to be located by the Dominion in a rectangular block."

While the Order in Council of May 4, 1880, indicates that the Government of the province was not prepared to admit that the Dominion was entitled under the terms of Union to select favourable lands elsewhere to take the place of lands in the Railway Belt alleged to be useless, and while the statute, chapter 11 of 1880, transferred the Railway Belt only, it appears that at the time of the enactment of chapter 14 of the statute of 1883 which followed the Order in Council of February 10, 1883, the Provincial Government had determined to accede to the request of the Dominion. In that Order in Council it is admitted "that a very considerable portion of the lands included in the Railway Belt—consists of impassable mountains and rocky lands unfit for agricultural purposes", and there follows a statement to the effect that the interests of the province call for a settlement of the question. This Order in Council when followed by the statute transferring not only the Railway Belt but three and one half million acres in the Peace River, forces the conclusion that there was a settlement of the land question. The grant of the Peace River Block was made to compensate the Dominion for the lands already alienated in the Railway Belt, amounting to 295,200 acres, and also in lieu of lands admitted to be worthless for agricultural purposes. The Peace River tract contained 3,204,800 acres more than the lands which had been alienated in the Railway Belt, and this amount was intended at the time to replace the worthless lands. At the time of the negotiations the Province of British Columbia was entitled to retain out of Railway Belt lands alleged to be worthless equal in area to the Peace River tract after deducting 295,200 acres. As far as appears the so-called worthless lands were never accurately specified, and I think it a fair conclusion that the grant of the Peace River lands was considered a final settlement for both the alienated lands and the lands alleged to be worthless in the railway belt. In any event there is nothing to warrant the conclusion that it was intended by either Government that any of the lands in the Railway Belt should be restored to British Columbia.

In the month of August, 1883, Sir Alexander Campbell, acting on behalf of the Dominion Government, conducted negotiations with the Government of the Province, and the result was an agreement signed by Sir Alexander Campbell on behalf of the Government of Canada, and by William Smythe, who was Chief Commissioner of Lands and Works, on behalf of the Government of British Columbia, which agreement was to become binding when ratified by the Legislature and the Parliament of Canada. The agreement made provision in regard



to the Island Railway, the Graving Dock, the Railway Lands and the Judiciary (Schedule "L"). In the agreement it was among other things provided that the Government of British Columbia should ask the Legislature to amend the Act of 1883 called "An Act relating to the Island Railway, the Graving Dock and the Railway Lands of the Province." The amendments are referred to as being "indicated in red on a copy of the proposed new Bill which is not printed." This agreement was approved by a committee of the Privy Council on September 27, 1883 (Schedule "M"). On the subject of the Railway Belt the agreement contained the following:—

(a) "The Legislature of British Columbia shall be invited to amend the Act number eleven of one thousand eight hundred and eighty—so that the same extent of land on each side of the line of railway through British Columbia wherever finally settled shall be granted to the Dominion Government in lieu of the lands conveyed by that Act.

(b) "The Government of Canada shall with all convenient speed offer for sale the lands within the railway belt upon the mainland on liberal terms to actual settlers."

With respect to the lands in the Peace River District it was provided:—

(c) "The Government of British Columbia shall obtain the authority of the Legislature to convey to the Government of Canada three and one half millions of acres of land in the Peace River District of British Columbia in one rectangular block east of the Rocky mountains and adjoining the Northwest Territories of Canada."

And a most important provision of the agreement is contained in clause "K")—

"This agreement is to be taken by the province in full of all claims up to this date by the province against the Dominion in respect of delays in the commencement and construction of the Canadian Pacific Railway, and in respect of the non-construction of the Esquimalt and Nanaimo Railway, and shall be taken by the Dominion Government in satisfaction of all claims for additional lands under the terms of Union, but shall not be binding unless and until the same shall have been ratified by the Parliament of Canada and the Legislature of British Columbia."

The agreement was ratified by the Parliament of Canada by 47 Victoria, chapter 6, assented to on the 19th of April, 1884 (Schedule "N"). The preamble to the Act is in part as follows:—

"And whereas for the purpose of settling all existing disputes and difficulties between the two Governments it hath been agreed as follows:"

With respect to the Railway Belt section 11 provided:—

"The lands—shall be placed upon the market at the earliest date possible and shall be offered for sale on liberal terms to actual settlers—."

2. The said lands shall be open for entry to bona fide settlers in such lots and at such prices as the Governor in Council may determine."

"3. The Governor in Council may from time to time regulate the manner in which and the terms and conditions on which the said lands shall be surveyed, laid out, administered, dealt with and disposed of: Provided that regulations respecting the sale, leasing or other disposition of such lands shall not come into force until they are published in the *Canada Gazette*."

As to the lands in the Peace River District the statute provided as follows:—

"12. The three and one half million acres of land in that portion of the Peace River District lying east of the Rocky mountain and adjoining the Northwest Territories of Canada—shall be held to be Dominion lands within the meaning of the Dominion Lands Act."

The application of the Dominion Lands Act to the Peace River Block is provided for in chapter 55 R.S.C. 1906, "An Act respecting Public Lands", and in the Dominion Lands Act, chapter 20 of the Statutes of Canada, 1908, it is provided by section 3, subsection (6) that the Act applies:—

"(b) To the three and one half million acres of land to be located by the Government of Canada in that portion of the Peace River District of British Columbia—granted to the Crown as represented by the Government of Canada by section 7, chapter 14 of the British Columbia Statutes of 1884".

And section 4 of the Dominion Lands Act provides:—

"None of the provisions of this Act shall apply to the public lands comprised within the tract of land known as "the Railway Belt" in the province of British Columbia— but the Governor in Council may from time to time make such regulations for the survey, administration and disposal of such lands as he deems suited to the conditions thereof".

The first Order in Council with respect to the Railway Belt and bringing into force regulations for the administration thereof was passed on April 20, 1885, and since that time lands in the Railway Belt have been open for homesteading on terms similar to Dominion lands. These lands have continued to be administered separately from Dominion lands in the Prairie Provinces, under regulations made from time to time by the Governor in Council. A number of Orders in Council have been passed embodying various changes in the practice, but the Belt has always been administered as nearly as possible on the same basis as other Dominion lands.

The Statute of British Columbia, chapter 14 of 1884, "An Act relating to the Island Railway, the Graving Dock and the Railway Lands of the Province" (Schedule "O"), was similar in many respects to that of 1883. The section providing for the conveyance of the Railway Belt was, however, altered by omitting the words "a similar extent of" and also the words "not exceeding", there being substituted for the first of these expressions the word "the" and for the words "not exceeding" the words "to a width of." The section is as follows:—

"2. Section 1 of the Act of the Legislature of British Columbia, No. 11 of 1880, intituled "An Act to authorize the grant of certain public lands on the mainland of British Columbia to the Government of the Dominion of Canada for Canadian Pacific Railway purposes", is hereby amended so as to read as follows:—

"From and after the passing of this Act there shall be, and there is hereby granted to the Dominion Government for the purpose of constructing and to aid in the construction of the portion of the Canadian Pacific Railway on the mainland of British Columbia, in trust, to be appropriated as the Dominion Government may deem advisable, the public lands along the line of the railway before mentioned, wherever it may be finally located, to a width of twenty miles on each side of the said line as provided in the Order in Council, section 11, admitting the province of British Columbia into Confederation; but nothing in this section contained shall prejudice the right of the province to receive and be paid by the Dominion Government the sum of \$100,000 per annum, in half-yearly payments in advance, in consideration of the lands so conveyed, as provided in Section 11 of the Terms of Unions; Provided always that the line of Railway before referred to, shall be one continuous line of Railway only, connecting the seaboard of British Columbia with the Canadian Pacific Railway, now under construction on the east of the Rocky mountains".

In considering the effect of this enactment it must be remembered that the contract with the Canadian Pacific Railway Company had been on the statute books of Canada since 1881, and that the railway was proceeding to completion under the terms of that contract. Under the terms the railway company was entitled to receive 25,000,000 acres of land between Winnipeg and the eastern boundary of British Columbia and in the manner set out in the contract; it was known that the company was receiving the sum of \$25,000,000 as a cash subsidy and would also receive from the Dominion Government on the completion of the work the Superior section and the Western section which were being constructed by the Government at the public expense; it was also known that none of the lands conveyed by the province to the Dominion were being used in the making up of the land subsidy to the railway company. When, therefore, the Legislature of the province dealt with the question of the transfer of the Railway Belt to the Dominion it did so with a full knowledge of the "extent" of the lands being provided by the Dominion in Manitoba and the Northwest Territories, as well as of the other terms of the contract with the railway company. In the enactments of 1880 and 1883 the lands transferred were "a smaller extent of" and "not exceed-



ing" a twenty mile strip on either side of the railway. The dropping of these phrases in the statute of 1884 and the absolute conveyance of a twenty mile strip on either side of the railway cannot be explained in any other way than that the Legislature was prepared to treat and did treat the land grant provided by the Dominion of Canada for the railway company as land "similar in extent" to a twenty mile strip on both sides of the railway throughout British Columbia.

Moreover the land granted by British Columbia in the Railway Belt was substantially similar in extent to the lands provided by the Dominion in Manitoba and the Northwest Territories. The grant of 25,000,000 acres was all appropriated in Manitoba and the Northwest Territories. The boundary line between Ontario and Manitoba is between Ingolf, Ontario, and Telford, Manitoba, respectively, at mile 1317 and mile 1330.1; Summit on the boundary between Alberta and British Columbia is about mile 2369, a distance of approximately 1,040 miles, making the grant by the Dominion a little over 24,030 acres per mile as compared with 25,600 acres, making no allowance for roads granted by the province of British Columbia. The two amounts under all the circumstances cannot be said to be dissimilar in extent. When the Peace River Block is added the acreage per mile granted by the province is, of course, much larger than that granted by the Dominion, but as pointed out before, the Peace River tract was given to make up for lands alienated and for lands alleged to be worthless in the Railway Belt. The agreement made with Sir Alexander Campbell, however, stated to be in settlement of all existing disputes, its subsequent enactment in the form of law, and the absolute conveyance contained in the statute of both the Peace River tract and the Railway Belt, has placed the province in a position where it cannot rely on any legal right to claim the return of any of the lands conveyed. Comparisons, therefore, of the amounts of lands conveyed for the purpose of the railway (while they may show that the province conveyed more land than was originally intended by section 11 of the terms of Union) do not assist the Province to establish any legal right to a reconveyance.

Sir John A. Macdonald introduced into Parliament a resolution to confirm the agreement between the two Governments on January 29, 1884 (Hansard, 1884, p. 67), and on March 21 following an explanation was given by Sir Charles Tupper. In the course of his remarks Sir Charles Tupper said:—

"We shall have disposed once and forever of all questions in regard to the past that have arisen between the province of British Columbia and the Government of Canada" and "we will have acquired a very valuable tract of land lying to the west of the Rocky mountains".

On behalf of the province it is pointed out that the lands were conveyed to the Dominion "in trust" and "in furtherance of the construction of the railway"; that the "trust" has not been fulfilled, and that it is not now possible for the Dominion to carry out the condition of the trust. This being so, counsel for the province argues that a resulting trust has arisen, and that the lands should be reconveyed to the province. Where property has been placed in the name of a person to effect a particular purpose which fails, a resulting trust arises, and the person who originally conveyed the property is in general entitled to its return. To use the lands "in furtherance of the construction of the railway" the Government of Canada might have granted the lands directly to the railway company as a part of the land subsidy or it might have sold or otherwise disposed of the lands and set aside the moneys so obtained and used them to reimburse the Treasury for any outlay necessary in the construction of the railway. Neither of these courses was adopted, but on the contrary the lands have been treated substantially as other Dominion lands, and open for settlement. Why the lands were not used as a subsidy is not

explained. The province, however, appears to have placed itself in a position where it cannot object to the conditions of the trust not having been carried out by agreeing to the lands being used for settlement purposes. In the agreement made between the two Governments and set out in chapter 14 of the Statutes of British Columbia, 1883, appears the following:—

“The Government of Canada shall with all convenient speed offer for sale the lands within the Railway Belt upon the mainland on liberal terms to actual settlers”; and in the agreement made between Sir Alexander Campbell acting for the Dominion and the Honourable William Smithe acting for the province on August 20, 1883, appear the following clauses:—

“The Dominion Government will use every exertion to place the land in the Railway Belt on the mainland in the market at the earliest possible date and for this purpose they will give all necessary instructions to their officers. The Government of British Columbia will on their part render all the aid in their power and place all the information which they have in their Lands Department at the disposal of the Dominion officers, the expenses to be borne by the Dominion Government. In the meantime the lands shall be open for entry to bona fide settlers in such lots and at such prices as the Dominion Government might fix.”

I also find in a letter of the Honourable William Smithe dated November 24, 1883, and addressed to M. Truteh, the agent of the Dominion Government in British Columbia, the following:—

“In complying with the request of the Dominion Government thus conveyed to me, I cannot refrain from urging on you the pressing necessity that exists for giving facilities to settlers to take up lands within the belt”.

The agreement made by Sir Alexander Campbell was ratified by the Legislature of the province as above stated, and also by the Parliament of Canada by 47 Victoria, chapter 6 assented to on April 19, 1884. As far as the Railway Belt is concerned, therefore, the province agreed and in fact urged that the lands therein be used by the Dominion for settlement purposes.

With respect to the Peace River Block the agreement provided:—

“The Government of British Columbia shall obtain the authority of the Legislature to convey to the Government of Canada three and one half millions of acres of land in the Peace River District of British Columbia in one rectangular block east of the Rocky mountains and adjoining the Northwest Territories of Canada”.

The provisions of the agreement with reference to using the lands for settlement purposes do not apply to the Peace River Block. The Dominion Statute, however, 47 Victoria, chapter 6, section 12, is as follows:—

“The three and one half million acres of land in that portion of the Peace River District of British Columbia lying east of the Rocky mountains and adjoining the Northwest Territories of Canada—and to be located by the said Government in one rectangular block shall be held to be Dominion Lands within the meaning of the Dominion Lands Act”.

The Peace River Block has always been treated as Dominion lands and open for settlement in so far as such lands were considered to be fit for settlement. The Dominion Lands Act as enacted by chapter 55 R.S.C., 1906, is applicable to the Peace River Block, and is also the Dominion Lands Act as revised and consolidated in 1908 (chapter 20, section 3, subsection 6). During all the years these lands have been offered for settlement, a policy, under the circumstances, which was not only in the best interests of British Columbia but also of the whole of Canada, no record can be found of any objection ever having been taken by the province, and while technically there was no agreement on the part of the province as to the Peace River Block being used for settlement as was contained in the arrangement made by Sir Alexander Campbell with respect to the Railway Belt, it may fairly be concluded that the province has acquiesced in the policy of using these lands for settlement purposes, and if the matter were one between individuals no claim to a resulting trust would exist.



Before referring to what the province calls its "equitable claims" for the return of the lands, I desire to set out for purposes of information a detailed statement of the disposition which has been made of both the Railway Belt and the Peace River Block.

As pointed out above the regulations in force from time to time affecting the Railway Belt show that the lands contained therein have been available for settlement on terms similar to those in force with respect to other Dominion lands. It is not suggested by the province that the terms offered for disposal of the lands have been other than generous or that they have been of such a character as to prevent settlement. It is true that a comparatively small area has been disposed of, but this fact cannot be laid at the door of the Dominion Government. The total area of the Railway Belt is 10,976,000 acres. The total area disposed of is 1,373,600 made up as follows:—

	Acres
Disposed of by the Provincial Government.. . . .	295,200
Homesteads (patented and unpatented) . . . . .	733,000
Sales, special grants, mining sales.. . . .	172,800
Indian reserves and reserves surrendered.. . . .	172,600
	<hr/>
	1,373,600

There still remain under the control of the Department of the Interior 9,602,400 acres made up as follows:—

	Acres
Forest reserves.. . . .	1,935,650
Proposed forest reserves.. . . .	1,427,200
Timber berths.. . . .	1,057,280
Grazing leases.. . . .	326,220
Parks.. . . .	747,500
	<hr/>

Area undisposed of.. . . . 4,108,550

Acres  
9,602,400

The area of the Peace River tract conveyed by the province is 3,500,000 acres of which 270,000 acres have been disposed of as follows:—

	Acres
Homesteads—patented.. . . .	122,000
Homesteads—unpatented . . . . .	80,000
Sales . . . . .	2,300
Road allowances.. . . .	25,000
Indian reserves.. . . .	40,700
	<hr/>

Total.. . . . 270,000

There still remain in the Peace River tract under the control of the Department of the Interior 3,230,000 acres made up as follows:—

	Acres
Proposed forest reserve.. . . .	1,544,000
Timber Berths.. . . .	33,000
Grazing leases.. . . .	35,000
Water area (surveyed).. . . .	30,000
Area open for entry.. . . .	700,000
Area unsurveyed.. . . .	888,000
	<hr/>

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3,230,000

It will be seen that a very small part of the lands in the Railway Belt has been settled, only 733,000 acres having been homesteaded, and in the Peace River tract only 202,000 acres. As far as the Railway Belt is concerned, this is not surprising for in the Order in Council of the Provincial Government of February 10, 1883, it is admitted that a very considerable portion of the lands in the Railway Belt "consists of impassable mountains and rocky lands useless for agricultural purposes." The lands, however, are said to possess untold wealth in timber and minerals. In the Peace River tract it is proposed by the Dominion authorities to establish a forest reserve of 1,544,000 acres, an area approximating one-half of the total acreage, and it is confidently predicted that in years to come substantial revenue will be realized from the administration of the reserve. The area homestead to date, however, amounts to only 202,000 acres, and there is a further area of 700,000 acres open for entry. There are still 888,000 acres of the block unsurveyed. It is impossible to form any estimate as to what revenue may be obtained in the future from either the Railway Belt or the Peace River Block from the administration of these lands, whether they are under the control of the federal or provincial authorities. If the history of the administration of all Dominion lands is taken as a criterion one would conclude that the revenue would be small. This, however, is perhaps not a fair inference because Dominion lands as a whole have been used for homestead purposes, and have not been administered with a desire of making revenue therefrom. The Department of the Interior has furnished a statement showing the revenue and expenditure connected with all Dominion lands, and has also compiled a statement dealing with the Railway Belt and the Peace River Block. The figures furnished are as follows:—

*Dominion Lands in the four Western Provinces and the Northwest Territories—*

Reserve—

Lands . . . . .	\$42,579,457 95
Timber and forestry . . . . .	17,211,887 34
Mines . . . . .	11,224,205 28
Parks . . . . .	1,423,670 14
	<hr/>
	\$72,439,220 71

Total approximate expenditure incurred by the Department of the Interior, including immigration, \$128,300,000.

*The Railway Belt of British Columbia—*

Reserve—

Lands . . . . .	\$ 822,513 90
Timber and Forestry . . . . .	4,839,354 91
Mines . . . . .	300,432 48
Parks . . . . .	36,904 65
	<hr/>
	\$ 5,999,205 94

Approximate Expenditure—

Dominion Lands . . . . .	\$ 1,508,439 89
Forestry . . . . .	2,602,492 41
Canadian National Parks . . . . .	1,189,591 06
Water power . . . . .	973,044 01
Dominion lands surveys . . . . .	1,126,599 00
	<hr/>
	\$ 7,400,166 37



*The Peace River Block—*

## Revenue—

Lands.. . . .	\$ 20,690 94
Timber and forestry.. . . .	8,136 05
Mines.. . . .	80,049 10
	<hr/>
	\$ 108,876 09

*Approximate Expenditure—*

Dominion lands.. . . .	\$ 13,261 08
Forestry.. . . .	15,937 78
Dominion lands surveys.. . . .	330,100 00
	<hr/>
	\$ 359,298 86

I am informed by the officials of the Department of the Interior that it is not possible to accurately state the cost of administration of the Railway Belt and the Peace River Block because of the fact that expenditure connected therewith is unavoidably mingled with the total expenditure on all Dominion lands. The above figures, however, are sufficient to show that the administration of the lands has not been profitable to the Dominion. The loss, however, which apparently results from the administration of the Dominion lands in British Columbia by the federal authorities might very conceivably disappear if the lands were in the hands of the provincial authorities who have all the machinery available for taking care of them, in as much as the resources of the province with the exception of the lands in question are owned and administered by the province itself. The adding of the Railway Belt and the Peace River Block to the resources of the province could not materially increase the present cost of administration.

In the claim made by the province an accounting is asked. Even if it could be shown that the Dominion had derived a profit from the administration of the Railway Belt and the Peace River Block, and if the matter of compensation to the province were under consideration, the Dominion would be entitled, according to a strict interpretation of the terms of Union, to set off against any such compensation the aggregate amount which has been paid to the province "in consideration of the lands to be conveyed in aid of the construction of the said railway."

The province, however, does not base its claim for the return of the lands on legal grounds alone. It claims that apart altogether from any legal claim it is entitled to the lands on equitable grounds, and in order to place it on the same footing as the other provinces with respect to the burden of constructing the Canadian Pacific Railway. The present consideration of the question is due to the matter having been pressed upon the Dominion Government by the late Hon. John Oliver, Premier of the province, whose Government on February 16, 1926, passed an Order in Council setting forth fully the complaint of the province (Schedule "P"). On the argument before me counsel for the province, while not abandoning any legal claim the province might have, stressed the unfairness of the position of British Columbia when compared with the position of the other provinces of Canada, and the burdens assumed by them in the carrying out of the provisions of Section 11 of the terms of Union. I must say that I was very much impressed by several of the arguments advanced on behalf of the province, and while as above stated, I am of the opinion that the province cannot by reason of its own agreements and statutes advance any legal claim, I am firmly of the opinion that the Government of Canada should consider the request of the province from the standpoint of fairness and justice rather than from the strictly legal and con-

tractual position. A sympathetic treatment of the provinces on all occasions by the Dominion authorities and an effort to remove anything which if allowed to remain may create a feeling of unjust treatment, will tend to promote that harmony which is essential to the success of Confederation. Moreover, I do not think the passing of time, nor the action of the Provincial Government of the day, nor the statutes of the Provincial Legislature should prevent a sympathetic consideration of the claims now made.

The British North America Act was no doubt intended to make permanent the relations of the provinces with the Dominion; this is true with respect to the financial relations, but it has not been treated as unchangeable. In 1868, one year after Confederation, when a proposal was made to alter the financial conditions upon which Nova Scotia entered the Dominion, it was argued that it was not constitutionally possible to do so, for the terms of the British North America Act prevented it. An adjustment, however, was made, and adjustments have been made since; the reason being that as time passed and relations worked themselves out under the constitution, it was found that conditions arose which weighed heavily upon some of the provinces and which called for a remedy. The principle has been fairly well established that where grievances exist they should be remedied if possible, even if the remedy is not in accordance with the statute law. The latest example of a revision of the arrangements with the provinces is furnished by the action of Parliament in regard to the Maritime Provinces as a result of the Duncan report.

The main arguments advanced on behalf of the province and contained in a statement filed with the Dominion Government by the provincial authorities are as follows:—

1. That all the lands conveyed to the Dominion were conveyed “in trust” and for the purposes of the construction of the railway, that the conditions of the trust have not been carried out, that it is not possible now to carry out the conditions of such trust, and that, even if legally, the province is not entitled to a return of the lands, yet, upon considerations of natural justice, the lands should be reconveyed.

2. That paragraph 11 of the terms of Union was agreed to and the conveyance of the lands to the Dominion was made as a sequence to a fully declared and well understood policy proposed by the Dominion and adopted by Parliament that the construction of the railway should be at the cost of public lands and not at the cost of the Dominion Treasury; that this policy was propounded to the delegates from British Columbia who visited Ottawa for the purpose of negotiating the terms of Union, and was the foundation upon which section 11 was based; that this policy was largely abandoned and this fact makes it equitable that there should be a readjustment.

3. That it was incumbent upon the Dominion to secure the construction of the railway out of the public lands, and to do this the railway should have been built by land subsidies only, or by subsidies of land supplemented by subsidies of money, such money subsidies to be repaid from the proceeds of the sale of public lands appropriated for that purpose; that the fact is, however, that approximately \$73,000,000 was paid out by the Dominion in cash, and that none of this money has been repaid from the sale of public lands appropriated for that purpose in accordance with the policy upon which section 11 of the terms of Union was based.

4. British Columbia claims that the effect of the abandonment of the well understood policy is that the province has paid in full under the terms of section 11 as if the policy and the trust has been carried out, and the whole cost of the railway met out of the public lands, and in addition has paid a second time through the Dominion Treasury, in so far as the \$73,000,000 expended in cash is concerned.



5. That if all the lands conveyed to the Dominion by the province under the terms of paragraph 11, and under section 7, chapter 14 of the Statutes of 1884, were reconveyed to the province, the latter would then be placed in a position of equality with the other provinces of the Dominion in respect of the construction of the railway.

6. That the lands conveyed to the Dominion by section 7 of chapter 14 of the Statutes of British Columbia, 1884 (the Peace River Block) were lands in lieu of lands which had been alienated in the Railway Belt, and in lieu of alleged worthless lands within the Railway Belt, and that such lands for the purpose of the inquiry should be treated as if their conveyance had been made under paragraph 11 of the terms of Union.

7. That the quantity of land to be contributed by the province was proportionable to that appropriated for the same purpose from the public lands of the Northwest Territories and Manitoba, and that while large appropriations of land in Manitoba and the Northwest Territories were made by Parliament, yet such appropriations had not been used except to a limited extent, and that the result has been that the lands conveyed by British Columbia have been disproportionately large as compared with the lands appropriated and used in the Northwest Territories and Manitoba.

8. That as to the payment of \$100,000 annually by the Government of Canada in consideration of lands conveyed, such payment was not in reality in return for lands conveyed, but was for the purpose of enabling the Government of the province to function properly and that the said payment should be so regarded.

Some of these arguments have already been referred to, and it is my intention now to refer to only three of those remaining, as follows:—

1. The contention that British Columbia has conveyed lands disproportionate to the lands granted in other parts of the Dominion for the construction of the railway.

2. That British Columbia has contributed both lands and its share of the cash outlay in the construction of the railway.

3. That the sum of \$100,000 agreed to be paid to the province was not compensation for the lands but an additional subsidy to the province to assist in the providing of necessary services.

As to number (1), it is contended that considering the terms upon which the province entered Confederation more lands have been conveyed by the province to the Dominion comparatively speaking, than was intended. Considering the Railway Belt itself, and looking strictly at the provisions of section 11 of the terms of Union, I do not think this contention is well founded. The belt to be conveyed was to be "similar in extent" to the lands used by the Dominion in Manitoba and the Northwest Territories, and was not to exceed 20 miles on each side of the railway. The lands given by the Dominion to the Canadian Pacific Railway—25,000,000 acres—when compared with the mileage through Manitoba and the Northwest Territories, cannot, it seems to me, be considered dissimilar in extent to the lands along the line in British Columbia conveyed by the province to the Dominion, namely, 10,976,000 acres. When the Peace River Block is added it is true that the province conveyed more lands than was originally intended under the terms of Union, but the Peace River Block was conveyed make up for the quantity of lands within the Railway Belt which had been alienated by the province, and also to replace lands in the Railway Belt said to be worthless; and the province has precluded itself from making any legal claim founded on this fact because of its own statutes and agreements. The claim of the province, however, in this regard goes behind the Statutes and the terms of Union. In brief it is that the policy of the Dominion Government at

the time of Union was to build the railway chiefly out of lands, and that for this purpose lands were to be used along the whole of the railway from Ontario to the Pacific coast. Lands were to be provided along the line through Manitoba and the Northwest Territories by the Dominion, and lands were to be granted by the province of Ontario along the line through that province. It is contended that this was the policy stated to the representatives of British Columbia by the Dominion authorities when the terms of Union were discussed, and there are statements of responsible public men of the time bearing out this contention. Resolutions of Parliament, the early statutes with respect to the Canadian Pacific Railway setting aside 50,000,000 acres of land, and the resolution of 1879 setting aside 100,000,000 acres of land, bear out the contention that the Dominion intended to use a much greater area of public lands than ultimately Parliament granted for the purpose. The fact appears to be that British Columbia, in the first instance, agreed to make its contribution of land on the assumption that much larger tracts of land were to be used elsewhere, including a grant from the province of Ontario, but it finally made its contribution and enacted statutes conveying the lands in question with a full knowledge of all the facts.

As to number (2), this argument is founded upon what was the stated policy of the Dominion Government at the time of and for years subsequent to Union, namely, that it was the intention to build the railway out of lands, with small cash subsidies, so as not to increase the rate of taxation. The land subsidy provided in 1881 was 25,000,000 acres. This subsidy of land was, however, reduced by the agreement of March 31, 1886, between the Dominion Government and the Canadian Pacific Railway. At that time the railway company owed the Dominion the sum of \$9,880,912, and it was agreed that the debt was to be extinguished by the reduction of the company's land grant by a sufficient number of acres valued at \$1.50 per acre. The portion of the land grant cancelled by this agreement amounted to 6,793,014 acres, leaving the net amount of the land grant at 18,206,996 acres. The actual cost to Canada, in addition to the lands, was approximately \$73,000,000, made up as follows: Cash subsidy \$25,000,000, in lieu of a part of the lands about \$10,000,000, constructed railways and surveys \$38,000,000. The result, therefore, was very far removed from the original policy, and it is pointed out that British Columbia helped to pay for the railway by contributing large areas of her lands, and also as a province of Canada paid her share of the \$73,000,000 in the form of taxation, and that in order to place British Columbia in the same position as the other provinces, the lands should be restored to the province. This contention is, of course, answered in a legal sense by the reference to the terms of Union. The Dominion was obligated to construct the railway—either to obtain its construction by some person or corporation or to construct the railway as a public enterprise. The agreement was not to construct the railway out of lands—nothing is said in the terms of Union as to the railway being built by the Dominion out of the proceeds of land, except that the lands granted by the province were to be used "in furtherance of the construction of the railway". At the outset the policy of the Government was to construct the road chiefly by making use of lands, but events showed this to be impossible, and in order to carry out its contract with the province the Dominion Government was forced to adopt other means, for it was under obligation to construct or procure the construction of the road, even if it were found impossible to make use of one acre of land in so doing. This being so, the province would be required as a part of Canada to bear its share of the cost to Canada, and no province has any legal right to come forward now and claim compensation. This fact, however, does not meet the grievance of British Columbia, namely, that of having paid a share, as a part



of Canada, of the cost of the construction of the railway, and in addition having contributed large areas of land to help in its construction, for this is something that no other province of Canada was called upon to do.

As to number (3), it is argued that the sum of \$100,000 agreed to be paid by the Dominion is not to be considered as compensation for the lands conveyed, but as an added subsidy to the province. The terms of Union, strictly construed, meet this contention, for the money is stated to be paid "in consideration of the land to be so conveyed in aid of the construction of the said railway". There can be no question about the construction to be placed upon these words. The fact is, however, that the lands to be conveyed by the province were used as an argument to obtain the support of the representatives of the people in the other provinces; in fact it is doubtful whether the necessary support could have been obtained at the time had it not been for the land grant, for their was widespread opinion that the railway was more for the advantage of British Columbia than for any other part of Canada. Moreover, the lands were referred to in Parliament as "a valuable tract of land" and reference was made by Sir George Cartier and others to the fact that the sum of \$100,000 was interest on the value of 2,000,000 acres only. I can find no definite statement by anyone in Parliament to the effect that the sum was intended as an additional subsidy. There were statements made in Parliament to the effect that if it had been shown that the province required an additional sum to maintain its provincial services the Government could not have refused to give it, and even without the conveyance of lands, and it appears to me to have been in the minds of a number of the public men of the day that the amount stated to be "in consideration of the land" was in reality an additional subsidy to the province. I am convinced that the sum was not considered at all to be adequate consideration for the value of the lands, and that the province was represented to be conveying lands of a value far in excess of any sum which was stated in the terms of Union to be paid for them.

The province has now all its resources except the Railway Belt and the Peace River block and controls and administers them. The organization it now has, with little, if any addition, can well take care of the lands in question, and thus the expenditure in connection therewith on the part of the Dominion may be eliminated—with the exception of the expenditure on the National Parks, which have been established in the Railway Belt, and which the Dominion Government may desire to retain as a national undertaking. Public economy, therefore, requires the return of the lands to the province. Moreover, the province from year to year spends huge sums of money in the Railway Belt on schools, police, roads, bridges, grants to hospitals and many other provincial services. The sums spent in the area annually are large because many of the larger towns and settlements in the province are located along the line of railway, and as times passes and development takes place the demands from the provincial treasury for needed local improvements will no doubt increase. This fact in itself constitutes a very good reason why the public lands, where provincial moneys are being spent upon local improvements, should be restored to the province.

Furthermore, when on December 19, 1883, the Provincial Legislature passed the Act conveying the Railway Belt and the Peace River lands to the Dominion, all the under surface as well as the surface rights passed to the Dominion with the exception of gold and silver, which remained in the Crown in the right of the province. It was not long before it became clear that an anomalous condition had been created with respect to the administration of the minerals. To mine gold and silver it was necessary to obtain provincial rights to the metals while the land in which they were found was vested in the Dominion. As to the

base minerals, the condition for practical mining created even greater difficulty. It is common knowledge that the base and precious metals are often closely associated in many, if not in the majority of lode deposits. The difficulties were too serious to remain unrecognized and accordingly on February 11, 1890, an agreement was reached between the Dominion and provincial authorities. According to the order of His Excellency the Governor General in Council the agreement was as follows:—

"The Government of Canada will not hereafter make any leases or other dispositions of any minerals in the Railway Belt in British Columbia, excepting coal, other than by patent in fee simple of the lands wherein they lie, to the intent that the minerals in the said belt, other than coal, may be administered under the mining laws of the province.

"All lands of the Dominion which may be for sale from time to time, within the Railway Belt, containing minerals within the meaning of the Mineral Act (B.C.), not being Indian Reserve or Settlements, or portions thereof, and not being under license or lease from the Dominion Government, shall be open to purchase by the Provincial Government, at the price of \$5 an acre."

This was the substance of the agreement, and while the result was fairly satisfactory, difficulties still remained. A memorandum prepared by the Provincial Lands Department in 1917 contained the following which well states the difficulties:—

"The course followed is to await the survey of the claim and the application for the Crown grant before taking up the matter of the surface with the Dominion Government. This course has worked well in the majority of cases, but, in a few instances, when such application was made to the Department of the Interior, it was found that either the whole or some portion of the lands covered by the claims in question had already been disposed of by the Dominion Government by homestead entry or by purchase, and in consequence such portions were not available for the mineral locators. However, as the surface and base metals are vested in the Dominion and only the gold and silver vested in the province, unless the alienations made by the Dominion within the belt reserve the base metals to the province, all that remains for the province to grant is the gold and silver.

"In one instance where the surface had already been dealt with by the Dominion Government application was made by the province for the base metals and a reply was received to the effect that it was considered that the Department of the Interior, as matters then stood, should not convey to the province the minerals under the lands affected, but that no objection would be made to doing so, providing the consent of the homesteaders was obtained and filed with the Department of the Interior.

"For various reasons the Department of Lands could not see its way to follow this course, and the decision was reached that all could be done in such cases was to issue a Crown grant for the gold and silver. This course has been followed in some instances, whilst in others, such grant is not satisfactory to the owners and in consequence a difficulty has arisen in regard to the administration of these lands.

"For the reasons above mentioned, it would be impossible in many cases, and I think inadvisable that the Dominion Government should be notified when a mineral entry is made so that the lands covered thereby might be reserved for the mineral locator, and if the present course is continued that the Dominion Government get their first notice after survey and when application for the surface is made, there is nothing to prevent such surface being disposed of, between the mineral entry and the date of such application, to parties other than the claim owners.

"Some arrangement to overcome the difficulty, however, might be arrived at whereby, providing the Dominion Government reserve the base metals in the Railway Belt in making homestead grants or sales, such base metals could be passed to the province where the surface is not available, otherwise all that the province has the power to deal with is the gold and silver, and claim owners then will be forced to enter into negotiations direct with the Dominion Government and the holders of the surface in regard to such base metals, etc., etc."

The British Columbia mining laws give the free miner the right to enter upon alienated land on condition that compensation for damages is provided for. The attitude taken by the Department of the Interior reversed the condition, making the free miner's entry to prospect and develop under surface minerals which presumably had not passed from the Crown, contingent on the consent of the surface holder. The memorandum above quoted was dated



January 5, 1917, and representations continued to be made by the provincial authorities for several years. Finally on the 20th of August, 1925, an order was approved by the Governor General in Council which had the effect of passing to the Crown in the right of the province,

"the undisposed base metals, except coal, petroleum and natural gas, underlying lands for which Dominion Government patents have been issued under authority of the said Railway Belt Act, up to and including the date hereof and in which all mines and minerals have been reserved, *with the exception of lands within the boundaries of existing Dominion Parks and Forest Reserves in the Railway Belt* and lands which have been granted for rights of way for the Canadian Pacific and Canadian National Railways."

The opinion of the provincial authorities is that even this remedy did not facilitate administration. The application still had to be sent to Ottawa to be passed upon and difficulties still exist as to the administration of the minerals. The fundamental cause undoubtedly is that an effort is being made to apply the Mineral laws of the province to lands of the Dominion upon which the miner must enter to obtain the minerals. There is also a difficulty in regard to a particular mineral, viz: gypsum. Under the Mineral Act of the province this substance is declared to be a mineral; under the Dominion statute it is not classified as a mineral. Acting on the federal classification Dominion land agents in the province grant gypsum leases. Free miners under the Mineral Act have staked and continue to stake and record mineral claims in the Railway Belt for gypsum. The possibilities in this connection for administrative difficulties are great and should not exist, and there can be no doubt that the administration and control of all minerals in the lands in question should be vested in one authority. Complaint is also made as to the Dominion Parks in the Railway Belt being closed to mining enterprise. On this point I express no opinion as the Dominion Government may desire to retain the parks and if they do, it is a question of policy whether or not such reserves should be open to the prospector.

In conclusion I desire to refer briefly to the opinions that were held at the time of the Union as to the burden, which, it was thought, would be imposed upon the country by the construction of the railway, and also to the fact that the passing of years has shown that the fears entertained were not well founded. Various estimates were made of the cost of construction. A very general opinion was that it would cost \$200,000,000 in cash and there were estimates as high as \$360,000,000. Such expenditure was unthinkable at the time, and far beyond the resources of the country. A large section of the people and many of the public men of the day were of the opinion, that the railway was for the especial and exclusive benefit of British Columbia; that the cost was entirely beyond the financial ability of the Dominion; that the railway was to be constructed through a country that was almost wholly a wilderness, and that its operation would involve a great annual loss; that British Columbia, owing to sparsity of population and rugged exterior, would not pay its way in Confederation, and would remain a perpetual charge upon the rest of Canada. Some, however, feared the absorption of Western Canada by the United States; Sir John A. Macdonald himself appears to have been fearful of this event, and he favoured the entry of British Columbia into the Dominion and the building of the railway, being confident that by making use of large land subsidies, aided by small subsidies in cash, the railway could be constructed without materially adding to the burdens of Canada. In adopting this policy he was no doubt influenced by what had taken place in the United States in connection with the building of railways to connect the East and the West in that country.

While some took the larger view of the railway, namely, that it was in the national interest, and that, apart from the consideration of British Columbia altogether, it would very probably be necessary in the interest of the develop-

ment of the Northwest to construct a railway from the Great Lakes to the foot of the Rocky mountains, the prevailing opinion was that it was the price of British Columbia entering Confederation, and that the price was too great and would be ruinous to Canada. This being the general opinion, the contribution of lands by the province weighed very heavily in inducing many to support the agreement with the province—the argument being that the lands given would go very far to assist in defraying the necessary expenditure.

When viewed in the light of subsequent events, the many predictions for the failure of the enterprise, and the fears of financial disaster, were entirely unwarranted. The success of the Canadian Pacific Railway, almost from the beginning, has been phenomenal, and its influence upon the development of the whole country has surpassed even the most sanguine expectations of those who had confidence in the enterprise. It rendered possible the opening up and the development of the great Northwest, the most productive wheat-producing area in the world, into which hundreds of thousands of immigrants have gone, cultivated the lands, produced wealth, and created a market for the manufactured products of other portions of Canada. The railway was for many years the one connecting link between east and west, and was during that time the greatest unifying factor in the country. While it has undoubtedly benefited British Columbia, aiding in its development and furnishing an outlet for its products, it has, as a great national undertaking, benefited the whole country to a much greater extent. Notwithstanding the national character of the undertaking, British Columbia has borne the burden of contributing large areas of her public lands to aid in its construction—largely on account of the predicted failure and burdens to be created—and to-day is the only province of Canada which granted lands towards the building of the railway, national in its character. The Inter-colonial railway was provided for in the Confederation pact; it was a part of the price paid by Canada for the entry of the Maritime Provinces into the Dominion, and no doubt the province by the sea, as well as other portions of Canada, profited by its construction; the Maritime Provinces, however, contributed no lands to aid in building it; they have, it is true, contributed their share of the cost to Canada of the building of the road and of the deficits which were encountered in its operation, in the same way as the people of British Columbia have contributed their share as citizens of Canada of the moneys expended in building the Canadian Pacific. The situation is one which, in my opinion, calls for a remedy, and the remedy should be the restoration to the province of the lands held by the Dominion in both the Railway Belt and the Peace River Block. When this is done, British Columbia will be placed in a position of equality with the other provinces in respect of the cost of the construction of the Canadian Pacific railway.

All of which is respectfully submitted.

(Sgd.) W. M. MARTIN.



## SCHEDULE "A"

SECTION 11 OF THE TERMS OF UNION BETWEEN THE DOMINION OF CANADA AND  
BRITISH COLUMBIA

"11. The Government of the Dominion undertake to secure the commencement simultaneously, within two years from the date of the Union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains, towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and, further, to secure the completion of such railway within ten years from the date of the Union.

"And the Government of British Columbia agreed to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway, throughout its entire length in British Columbia (not to exceed, however, twenty (20) miles on each side of said line), as may be appropriated for the same purpose by the Dominion Government from the public lands of the Northwest Territories and the Province of Manitoba: Provided that the quantity of land which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government shall be made good to the Dominion from contiguous public lands; and provided further that until the commencement, within two years, as aforesaid, from the date of the Union, of the construction of the said railway, the Government of British Columbia shall not sell or alienate any further portions of the public lands of British Columbia in any other way than under right of pre-emption, requiring actual residence of the pre-emptor on the land claimed by him. In consideration of the land to be so conveyed in aid of the construction of the said railway, the Dominion Government agree to pay to British Columbia, from the date of the Union, the sum of 100,000 dollars per annum, in half yearly payments in advance."

## SCHEDULE "B"

35 VICT. CHAP. 71

## AN ACT RESPECTING THE CANADIAN PACIFIC RAILWAY

WHEREAS by the terms and conditions of the admission of British Columbia into union with the Dominion of Canada, set forth and embodied in an address to Her Majesty, adopted by the Legislative Council of that Colony, in January, 1871, under the provisions of the one hundred and forty-sixth section of "The British North America Act, 1867," and laid before both the Houses of the Parliament of Canada by His Excellency the Governor General, during the now last session thereof, and recited and concurred in by the Senate and House of Commons of Canada during the said session, and embodied in addresses of the said Houses to Her Majesty under the said section of the British North America Act, and approved by Her Majesty and embodied in the Order in Council admitting British Columbia into the union under the said Act as part of the Dominion of Canada, from the twentieth day of July, 1871—it is among other things provided, that the Government of the Dominion undertake to secure the commence-

ment simultaneously, within two years from the date of the union, of the construction of a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected, east of the Rocky Mountains towards the Pacific, to connect the seaboard of British Columbia with the railway system of Canada; and further, to secure the completion of such railway within ten years from the date of the union;—The Government of British Columbia agreeing to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway throughout its entire length in British Columbia, not to exceed, however, twenty miles on each side of the said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the North West Territories and the Province of Manitoba, subject to certain conditions for making good to the Dominion Government from contiguous lands, any lands within the said limits which may be held under pre-emption right or Crown grant, and for restraining the sale or alienation by the Government of British Columbia, during the said two years, of lands within the said limits;—And whereas the House of Commons of Canada resolved during the said now last session, that the said railway should be constructed and worked by private enterprise and not by the Dominion Government; and that the public aid to be given to secure that undertaking, should consist of such liberal grants of land, and such subsidy in money, or other aid, not increasing the present rate of taxation, as the Parliament of Canada should thereafter determine; and it is expedient to make provision for carrying out the said agreement and resolution: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. A railway, to be called “The Canadian Pacific Railway,” shall be made in conformity with the agreement referred to in the preamble to this Act, and such railway shall extend from some point on or near Lake Nipissing and on the south shore thereof, to some point on the shore of the Pacific Ocean, both the said points to be determined by the Governor in Council, and the course and line of the said railway between the said points to be subject to the approval of the Governor in Council.

2. The whole line of the said railway shall be made and worked by private enterprise, and not by the Dominion Government, and by one company having a subscribed capital of at least ten million dollars, and approved of and agreed with by the Governor in Council in the manner hereinafter mentioned, and shall be bona fide commenced within two years from the twentieth day of July, one thousand eight hundred and seventy-one, and completed within ten years from the said day; and subject to the said provision as to commencement and completion, the company shall further be bound to commence and complete at such time or times as the Government may prescribe, any portion or portions of the railway lying between points on the line thereof to be defined in the Order or Orders in Council to be made from time to time in that behalf; Provided always that ten per cent of the capital of the company shall be paid up and deposited, in money or Government securities, in the hands of the Receiver General of Canada, before any agreement is concluded between the Government and the Company, and shall remain in his hands until otherwise ordered by Parliament; but if after the payment into the hands of the Receiver General by any company of the said deposit, such contract should not be finally executed, the Governor in Council shall order the said deposit to be returned.

3. The land grant to be made to the company constructing and working the said railway, to secure the construction of the same, and in consideration thereof, shall not exceed in the whole fifty million acres; but subject to this limitation,



it may, in the provinces of Manitoba and British Columbia and the North West Territories, be equal to but shall not exceed what would be contained in blocks not exceeding twenty miles in depth, on each side of the said railway, alternating with other blocks of like depth on each side thereof to be reserved by and for the Dominion Government, for the purposes of this Act, and to be sold by it, and the proceeds thereof applied towards reimbursing the sums expended by the Dominion under this Act: and the lands to be granted to the company may be laid out and granted in such alternate blocks, in places remote from settlement and where the Governor in Council may be of opinion that such system is expedient, and to be designated in and by agreement between the Government and the company; but no such grant shall include any land then before granted to any other party, or on which any other party has any lawful claim of pre-emption or otherwise, or any land reserved for school purposes; and the deficiency arising from the exception of any such lands shall be made good to the company by the grant of an equal extent from other wild and ungranted Dominion lands: Provided, that, so far as may be practicable, none of such alternate blocks of land as aforesaid shall be less than six miles nor more than twelve miles in front on the railway, and the blocks shall be so laid out as that each block granted to the company on one side of the railway shall be opposite to another block of like width reserved for the Government on the other side of the railway; and provided further, that if the total quantity of land in the alternate blocks to be so granted to the company, should be less than fifty million acres, then the Government may, in its discretion, grant to the company such additional quantity of land elsewhere as will make up with such alternate blocks, a quantity not exceeding fifty million acres; and in the case of such additional grant, a quantity of land elsewhere equal to such additional grant shall be reserved and disposed of by the Government for the same purposes as the alternate blocks to be reserved as aforesaid by the Government on the line of the railway, and such additional lands granted to the company and reserved for the Government shall be laid out in alternate blocks on each side of a common front line or lines, in like manner as the blocks granted and reserved along the line of the railway: And the Governor in Council may, in his discretion, grant to the company the right of way through any Dominion lands.

In the province of Ontario, the land grant to the company for the purposes aforesaid, shall be such as the Government of the Dominion may be enabled to make, under any arrangement with the Government of the province of Ontario.

The lands to be granted to the company under this section may be so granted from time to time as any portion of the railway is proceeded with in quantities proportionate to the length, difficulty of construction or expenditure upon such portion, to be determined in such manner as may be agreed upon by the Government and the company.

4. The subsidy or aid in money to be granted to the said company shall be such sum not exceeding thirty millions of dollars in the whole, as may be agreed upon between the Government and the company, such subsidy to be granted from time to time by instalments as any portion of the railway is proceeded with, in proportion to the length, difficulty of construction, and cost of such portion: And the Governor in Council is hereby authorized to raise by loan in the manner by law provided such sum not exceeding thirty million dollars as may be required to pay the said subsidy.

## SCHEDULE "C"

37 VICT. CHAP. 14

## AN ACT TO PROVIDE FOR THE CONSTRUCTION OF THE CANADIAN PACIFIC RAILWAY

WHEREAS by the terms and conditions of the admission of British Columbia into Union with the Dominion of Canada, set forth and embodied in an address to Her Majesty adopted by the Legislative Council of that Colony in January, one thousand eight hundred and seventy-one, under the provisions of the one hundred and forty-sixth section of "The British North America Act, 1867", and laid before both the Houses of the Parliament of Canada during the Session of one thousand eight hundred and seventy-one, and concurred in by the Senate and House of Commons of Canada, and embodied in addresses of the said Houses to Her Majesty under the said section of "The British North America Act, 1867", and approved by Her Majesty and embodied in the Order of Her Majesty in Council of the sixteenth day of May, one thousand eight hundred and seventy-one, admitting British Columbia into the Union under the said Act as part of the Dominion of Canada, from the twentieth day of July, one thousand eight hundred and seventy-one, it is among other things provided:

That the Government of the Dominion shall construct a railway from the Pacific towards the Rocky Mountains, and from such point as may be selected for the purpose east of the Rocky Mountains towards the Pacific, to connect the seaboard of British Columbia with the Railway System of Canada: and further that the Government of the Dominion shall secure the commencement of such railway within two years and its completion within ten years from the date of the Union: the Government of British Columbia agreeing to convey to the Dominion Government, in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway, a similar extent of public lands along the line of railway, throughout its entire length in British Columbia, (not to exceed, however, twenty miles on each side of the said line) as may be appropriated for the same purpose by the Dominion Government from the public lands in the North West Territories and the Province of Manitoba, subject to certain conditions for making good to the Dominion Government from contiguous lands the quantity of land which may be held under pre-emption right or by Crown grant within the said limits, and for restraining the sale or alienation by the Government of British Columbia during the said two years of lands within the said limits.

And whereas the House of Commons of Canada resolved in the Session of the year one thousand eight hundred and seventy-one, that the said Railway should be constructed and worked by private enterprise and not by the Dominion Government, and that the public aid to be given to secure its accomplishment should consist of such liberal grants of land and such subsidy in money or other aid, not increasing the then existing rate of taxation, as the Parliament of Canada should thereafter determine; And whereas the Statute thirty-fifth Victoria, chapter seventy-one, was enacted in order to carry out the said agreement and resolution; but the enactments therein contained have not been effectual for that purpose.

And whereas by the legislation of this present Session, in order to provide means for meeting the obligations of the Dominion, the rate of taxation has been raised much beyond that existing at the date of the said resolution; And whereas it is proper to make provision for the construction of the said work as rapidly as the same can be accomplished without further raising the rate of



taxation: Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. A railway to be called the "Canadian Pacific Railway" shall be made from some point near to and south of Lake Nipissing to some point in British Columbia on the Pacific ocean, both the said points to be determined and the course and line of the said railway to be approved of by the Governor in Council.

2. The whole line of the said railway, for the purpose of its construction shall be divided into four sections; the first section to begin at a point near to and south of Lake Nipissing, and to extend towards the upper or western end of Lake Superior, to a point where it shall intersect the second section herein-after mentioned; the second section to begin at some point on Lake Superior, to be determined by the Governor in Council, and connecting with the first section, and to extend to Red River, in the Province of Manitoba; the third section to extend from Red River, in the Province of Manitoba, to some point between Fort Edmonton and the foot of the Rocky Mountains to be determined by the Governor in Council; the fourth section to extend from the western terminus of the third section to some point in British Columbia on the Pacific Ocean.

8. The Governor in Council may divide the several sections of the said railway into subsections, and may contract with any person, co-partnership or company incorporated or to be hereafter incorporated (hereinafter referred to as the "contractors", which expression shall be understood to include a single "Contractor" for any such work) for the construction of any section or subsection of the said railway, including all works connected therewith, and all rolling stock required to work the same, and for the working of the same as hereinafter provided, on such terms and conditions as by the Governor in Council may be deemed just and reasonable, subject to the following provisions:

1. That the works on any section or subsection of the said railway shall not be given out to any contractor or contractors except after tenders shall have been obtained for the same;

2. That the contract for any portion of the said works shall not be given to any contractors unless such contractors give satisfactory evidence that they possess a capital of at least four thousand dollars per mile of their contract, and of which twenty-five per cent in money, government or other sufficient securities approved by the Governor in Council, shall have been deposited to the credit of the Receiver General, in one or more of the chartered banks of the Dominion, to be designated for that purpose by the Governor in Council as security for the completion of the contract; and the Governor in Council may make such further conditions as he may deem expedient for securing the performance of the contract, as well with respect to the construction as to the working of the railway after completion, and any such condition shall be valid and may be enforced as provided by the contract;

3. That the total sum to be paid to the contractors shall be stipulated in the contract, and shall be ten thousand dollars for each mile of the section or subsection contracted for, and that such sum shall be paid to the contractors as the work progresses by monthly payments in proportion to the value of the work then actually performed (according to the estimates of the engineers designated for the purpose by the Minister of Public Works), as compared with the value of the whole work contracted for, including rolling stock and all things to be done or furnished by the contractors; and except money arising from the sale of lands, as hereinafter provided, no further sum of money shall be payable to the contractors as principal, but interest at the rate of four per cent per annum for twenty-five years from the completion of the work, on a sum (to be stated in the contract) for each mile of the section or subsection

contracted for shall be payable to the contractors, and guarantees for the payment thereof shall be given from time to time to the contractors in like manner and proportion, and on like conditions, as payments are to be made on the principal sum above mentioned; and the tenders for the work shall be required to state the lowest sum per mile on which such interest and guarantees will be required;

4. That a quantity of land, not exceeding twenty thousand acres for each mile of the section or subsection contracted for, shall be appropriated in alternate sections of twenty square miles each along the line of the said railway or at a convenient distance therefrom, each section having a frontage of not less than three miles nor more than six miles on the line of the said railway; and that two thirds of the quantity of land so appropriated shall be sold by the Government at such prices as may be from time to time agreed upon between the Governor in Council and the contractors, and the proceeds thereof accounted for and paid half-yearly to the contractors free from any charge of administration or management, the remaining third to be conveyed to the contractors. The said lands to be of fair average quality, and not to include any land already granted or occupied under any patent, license of occupation or pre-emption right; and when a sufficient quantity cannot be found in the immediate vicinity of the railway, then the same quantity, or as much as may be required to complete such quantity, shall be appropriated at such other places as may be determined by the Governor in Council.

5. That the said blocks of land to be appropriated as aforesaid, shall be designated by the Governor in Council as soon as the line of railway, or of any section or subsection thereof, is finally located: Provided that all such payments of the proceeds of lands sold, and conveyance of lands to be granted shall be so made and granted from time to time as the work of construction is proceeded with, in like manner and proportion and on like conditions as the money and guarantees above mentioned, and subject to any conditions of the contract as respects the construction or the working of the railway after completion.

### SCHEDULE "D"

*REPORT of Privy Council dated September 20, 1875, contained in Sessional Papers, 1881, at page 219*

The Committee of Council have had under consideration the difficulties arising out of the agreement made in 1871, for the construction of the Canadian Pacific Railway. Mr. Edgar's mission to British Columbia last year was based upon the view that the conditions of that agreement were quite impracticable of fulfilment. The proposals submitted by him to the British Columbia Government were briefly that, the limitation of time being given up, Canada should undertake that one million and a half of dollars should be expended upon construction within that Province in each year after location, and that the building of a wagon road along the line of the proposed railway construction should precede actual railway construction.

It was further proposed to build a railway on Vancouver Island, from Esquimalt to Nanaimo.

The propositions were either not considered by the Government of British Columbia, or, if considered, they were rejected by them, and they subsequently appealed to the Imperial Government, invoking their intervention. The result of this appeal was an offer from the Right Honourable Lord Carnarvon, Secretary of State for the Colonies, of his good offices to promote a settlement.



The Privy Council in their Minute of the 23rd July, 1874, advised "that Lord Carnarvon be informed they would gladly submit the question to him for his decision as to whether the exertions of the Government, the diligence shown, and the offers made, have or have not been fair and just, and in accordance with the spirit of the agreement." Lord Carnarvon in his Despatch of August 16, acting upon this Minute, and upon agreement on the part of British Columbia to abide by his decision, made certain suggestions, of which the most important were—that the amount of yearly expenditure within the Province, after location, should be not less than two millions of dollars; that the period of completion should be the year 1890; and that the railway from Esquimalt to Nanaimo should be at once commenced.

The Canadian Government in their Minute of Council of September 17th, stated "that while in no case could the Government undertake the completion of the whole line in the time mentioned, and extreme unwillingness exists to another limitation of time, yet, if it be found absolutely necessary to secure a present settlement of the controversy by further concessions, a pledge may be given that the portion West of Lake Superior will be completed so as to afford connection by rail with existing lines of railway through a portion of the United States, and by Canadian waters during the season of navigation, by the year 1890, as suggested".

It was further agreed that after location, Two millions should be expended yearly upon construction in British Columbia, and that a Railway from Esquimalt to Nanaimo should be built.

It must be borne in mind that every step in the negotiations was necessarily predicated upon and subject to the conditions of the Resolution of the House of Commons, passed in 1871, contemporaneously with the adoption of the Terms of Union with British Columbia, subsequently enacted in the Canadian Pacific Railway Act of 1872, and subsequently re-enacted (after a large addition had been made to the rate of taxation) in the Canadian Pacific Railway Act of 1874; that the public aid to be given to secure the accomplishment of the undertaking "should consist of such liberal grants of land and such subsidy in money or other aid, not increasing the then existing rate of taxation, as the Parliament of Canada should thereafter determine".

This determination not to involve the country in a hopeless burden of debt is sustained by public opinion everywhere throughout the Dominion, and must of necessity control the action of the Government, and it cannot be too clearly understood that any agreements as to yearly expenditure, and as to completion by a fixed time, must be subject to the condition thrice recorded in the Journals of Parliament, that no further increase of the rate of taxation shall be required in order to their fulfilment.

The sanction of Parliament to the construction of the proposed Railway from Esquimalt to Nanaimo was necessarily a condition precedent to the commencement of the work.

The other important features of the arrangement, namely, the limitation of time for the completion of a certain portion, and the specification of a yearly expenditure, were deemed to be within the meaning of the Pacific Railway Act, 1874, subject, of course, to the condition already mentioned, and which was referred to in the Minute of Council of December 18th, 1874, when the Government "expressed a willingness to make those 'further concessions rather than forego an immediate settlement of so irritating a question, as the concessions suggested might be made without involving the violation of the spirit of any parliamentary resolution or the letter of any enactment.'"

The proposed Railway from Esquimalt to Nanaimo does not form a portion of the Canadian Pacific Railway as defined by the Act; it was intended to benefit local interests, and was proposed as compensation for the disappointment experienced by the unavoidable delay in constructing the Railway across

the Continent. The work is essentially a local one, and there are obvious reasons against the Canadian Government, under ordinary circumstances, undertaking the construction of such works, and in favour of their being built, if at all, by virtue of Provincial action.

The Bill which the Government introduced into the House of Commons to provide for building this Railway, evoked a considerable degree of opposition in that House and in the country, and, although passed by the House of Commons, it was afterwards rejected in the Senate, and thus there is imposed upon the Government the duty of considering some other method of meeting all just expectation of the people of British Columbia, whose Government has not suggested to this Government any solution of the difficulty.

It would seem reasonable that the people of British Columbia should construct this work themselves, or (if they think other local public works more advantageous) should, in lieu of this, themselves undertake such other local public works, and that the compensation to be given them by Canada for any delays which may take place in the construction of the Pacific Railway should be in the form of a cash bonus to be applied towards the local Railway, or such other local works as the Legislature of British Columbia may undertake, Canada also surrendering any claim to lands which may have been reserved in Vancouver Island for railway purposes.

The sum of \$750,000 would appear to the Committee to be a liberal compensation, and the Committee advise that the Government of British Columbia be informed that this Government is prepared to propose to Parliament at its next Session, the Legislation necessary to carry out the views contained in this Minute as to the construction of the Pacific Railway and the compensation to be given to British Columbia for delays in such construction.

The Committee further advise that a copy of this Minute be transmitted to the Right Honourable the Secretary of State for the Colonies.

Certified,

(Signed) W. A. HIMSWORTH,  
*Clerk Privy Council, Canada.*

## SCHEDULE "E"

### DOMINION ORDER IN COUNCIL OF 3RD SEPTEMBER, 1878

"On a report, dated 31st August, 1878, from the Honourable the Minister of Public Works, stating that by the eleventh clause of the agreement under the terms of which the Province of British Columbia entered the Dominion of Canada, the Government of British Columbia engaged to convey to the Dominion Government in trust, to be appropriated in such manner as the Dominion Government might deem advisable, in furtherance of the construction of the Canadian Pacific Railway, an extent of public lands along the line of Railway throughout its entire length in British Columbia (not, however, exceeding twenty (20) miles on each side of the said line), equal to the area which might be appropriated for the same purpose by the Dominion Government from the public lands of the North-West Territories and the Province of Manitoba, the conditions of the agreement further providing that the quantity of land held under pre-emption right or by Crown Grant, within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government, should be made good to the Dominion from contiguous public lands.

"That by several Orders in Council in that behalf, the necessary public lands in the North-West Territories and Province of Manitoba, along the line of



the said Railway have been withdrawn from sale and settlement, pending the appropriation thereof for the purposes of the said Railway, and the route of the line of Railway through Manitoba, the North-West Territories, and British Columbia, having been now defined by Orders in Council, it is advisable that the necessary appropriation should be made and that the Government of British Columbia should be called upon to convey to the Dominion Government such extent of public lands in British Columbia as has been above specified.

"The Minister therefore recommends that all public lands in the Province of Manitoba, and in the North-West Territories, within twenty miles on each side of the said line of Railway, be set apart for the purposes of the Canadian Pacific Railway, and be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said Railway.

"The Minister further recommends that the Secretary of State be authorized, on behalf of this Government, to inform the Government of British Columbia as to the route of the line of railway, notifying them that all public lands in the Province of Manitoba, and in the North-West Territories, within twenty miles on each side of the line, have been set apart as above mentioned; and to request that Government, in accordance with their agreement in that behalf, to convey to the Dominion Government in trust, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said Railway, a similar extent of public lands along the line of Railway, throughout its entire length in British Columbia, and to make good to the Dominion, from contiguous public lands, the quantity of land (if any) which may be held under pre-emption right or by Crown grant within the limits of the tract of land in British Columbia to be so conveyed to the Dominion Government.

"The Committee submit the foregoing recommendations for Your Excellency's approval.

"Certified,

(Signed) "W. A. HIMSWORTH,

"Clerk, Privy Council."

## SCHEDULE "F"

RESOLUTION *proposed by Sir Charles Tupper in the House of Commons, 10th May, 1879, reported in Hansard, page 1895-1896.*

"7. RESOLVED, That it is further expedient to provide (1) *that one hundred million acres of land, and all the minerals they contain, be appropriated for the purposes of constructing the Canadian Pacific Railway.* (2) *That the land be vested in Commissioners to be specially appointed, and that the Imperial Government be represented on the Commission.* (3) *That all the ungranted land within twenty miles on the line of the Canadian Pacific Railway belonging to the Dominion be vested in such Commission; and that when the lands along the line of the Canadian Pacific Railway are not of fair average quality for settlement, a corresponding quantity of lands of fair quality shall be appropriated in other parts of the country, to the extent in all of 100,000,000 of acres.* (4) *That said Commissioners be authorized to sell, from time to time, any portions of such land at a price to be fixed by the Governor-in-Council, on their recommendation, at the rate of not less than \$2 per acre; and that they may be required to invest the proceeds of such sales in Canadian Government securities, to be held exclusively for the purpose of defraying the cost of the construction of the Canadian Pacific railway."*

## SCHEDULE "G"

44 VICT., CHAP. 1

## AN ACT RESPECTING THE CANADIAN PACIFIC RAILWAY

WHEREAS by the terms and conditions of the admission of British Columbia into Union with the Dominion of Canada, the Government of the Dominion has assumed the obligation of causing a railway to be constructed, connecting the seaboard of British Columbia with the railway system of Canada;

And whereas the Parliament of Canada has repeatedly declared a preference for the construction and operation of such railway by means of an incorporated company aided by grants of money and land, rather than by the Government, and certain Statutes have been passed to enable that course to be followed, but the enactments therein contained have not been effectual for that purpose;

And whereas certain sections of the said railway have been constructed by the Government, and others are in course of construction, but the greater portion of the main line thereof has not yet been commenced or placed under contract, and it is necessary for the development of the North West Territory and for the preservation of the good faith of the Government in the performance of its obligations, that immediate steps should be taken to complete and operate the whole of the said railway;

And whereas, in conformity with the expressed desire of Parliament, a contract has been entered into for the construction of the said portion of the main line of the said railway, and for the permanent working of the whole line thereof, which contract with the schedule annexed has been laid before Parliament for its approval and a copy thereof is appended hereto, and it is expedient to approve and ratify the said contract, and to make provision for the carrying out of the same:

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The said contract, a copy of which with schedule annexed, is appended hereto, is hereby approved and ratified, and the Government is hereby authorized to perform and carry out the conditions thereof, according to their purport.

2. For the purpose of incorporating the persons mentioned in the said contract, and those who shall be associated with them in the undertaking, and of granting to them the powers necessary to enable them to carry out the said contract according to the terms thereof, the Governor may grant to them in conformity with the said contract, under the corporate name of the Canadian Pacific Railway Company, a charter conferring upon them the franchises, privileges and powers embodied in the schedule to the said contract and to this Act appended, and such charter, being published in the *Canada Gazette*, with any Order or Orders in Council relating to it, shall have force and effect as if it were an Act of the Parliament of Canada, and shall be held to be an Act of incorporation within the meaning of the said contract.

3. Upon the organization of the said Company, and the deposit by them, with the Government, of one million dollars in cash or securities approved by the Government, for the purpose in the said contract provided, and in consideration of the completion and perpetual and efficient operation of the railway by the said Company, as stipulated in the said contract, the Government may grant to the Company a subsidy of twenty-five million dollars in money, and twenty-five million acres of land, to be paid and conveyed to the Company in the manner and proportions and upon the terms and conditions agreed upon



in the said contract and may also grant to the Company the land for right of way, stations and other purposes, and such other privileges as are provided for in the said contract. And in lieu of the payment of the said money subsidy direct to the Company, the Government may convert the same, and any interest accruing thereon, into a fund for the payment to the extent of such fund, of interest on the bonds of the company, and may pay such interest accordingly; the whole in manner and form as provided for in the said contract.

5. Pending the completion of the eastern and central sections of the said railway as described in the said contract, the Government may also transfer to the said Company the possession and right to work and run the several portions of the Canadian Pacific Railway as described in the said Act thirty-seventh Victoria, chapter fourteen, which are already constructed, and as the same shall be hereafter completed; and upon the completion of the said eastern and central sections the Government may convey to the Company, with a suitable number of station buildings, and with water service (but without equipment), those portions of the Canadian Pacific Railway constructed, or agreed by the said contract to be constructed by the Government, which shall then be completed; and upon completion of the remainder of the portion of the said railway to be constructed by the Government, that portion also may be conveyed by the Government to the Company, and the Canadian Pacific Railway defined as aforesaid shall become and be thereafter the absolute property of the Company; the whole, however, upon the terms and conditions and subject to the restrictions and limitations contained in the said contract.

## SCHEDULE "H"

### 43 VICT. CHAP. 11

*AN ACT to authorize the grant of certain Public Lands on the Mainland of British Columbia to the Government of the Dominion of Canada for Canadian Pacific Railway purposes.*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

1. From and after the passing of this Act, there shall be, and there is hereby, granted to the Dominion Government for the purpose of constructing and to aid in the construction of the portion of the Canadian Pacific Railway Line located between Burrard Inlet and Yellow Head Summit, in trust, to be appropriated in such manner as the Dominion Government may deem advisable, a similar extent of public lands along the line of railway before mentioned (not to exceed twenty miles on each side of the said line) as may be appropriated for the same purpose by the Dominion from the public lands of the North West Territories and the Province of Manitoba, as provided in the Order in Council, section 11, admitting the Province of British Columbia into Confederation. The land intended to be hereby conveyed is more particularly described in a despatch to the Lieutenant-Governor from the Honourable the Secretary of State, dated the 31st day of May, 1878, as a tract of land lying along the line of said railway, beginning at English Bay or Burrard Inlet and following the Fraser River to Lytton; thence by the valley on the River Thompson to Kamloops; thence up the valley of the North Thompson, passing near to Lakes Albreda and Cranberry, to Tete Jaune Cache; thence up the valley of the Fraser River to the Summit of Yellow Head, or boundary between British Columbia and the North West Territories, and is also defined on a plan accompanying a further despatch to the Lieutenant-Governor from the said Secretary of State, dated the 23rd

day of September, 1878. The grant of the said land shall be subject otherwise to the conditions contained in the said 11th section of the Terms of Union.

2. This Act shall not affect or prejudice the rights of the public with respect to common and public highways existing at the date hereof within the limits of the lands hereby intended to be conveyed.

3. This Act may be cited as "An Act to grant public lands on the Mainland to the Dominion in aid of the Canadian Pacific Railway, 1880."

### SCHEDULE "I"

*PETITION of Legislative Assembly of British Columbia to the Queen, respecting Canadian Pacific Railway, March 25, 1881*

To the Queen's Most Excellent Majesty.

MOST GRACIOUS SOVEREIGN:

We, Your Majesty's most dutiful and loyal subjects, the Members of the Legislative Assembly of the Province of British Columbia, in the Fourth Session of the Third Parliament assembled, humbly approach Your Majesty for the purpose of representing:—

1. That the Province was mainly induced to enter into the Dominion Confederation in 1871, by the offer and agreement on the part of the Dominion, as appears by the Treaty of Union of that year, to construct and complete a Railway on or before July, 1881, through British Territory, connecting British Columbia with the Eastern Provinces.

2. That, on the 31st day of July, 1874, the Government of this Province presented a humble petition to Your Majesty respecting the non-fulfilment by the Dominion of its Railway obligations towards British Columbia, as are contained in the Treaty of Union between the Dominion and British Columbia, assented to by Your Majesty in the year 1871.

3. That negotiations thereupon ensued, which resulted in Your Majesty's Principal Secretary of State for the Colonies (the Earl of Carnarvon) signifying his decision on the question in dispute, which decision, it is important to observe, was assented to by the Dominion Government.

4. That the following, amongst other conditions, form part of this decision—

(a) "That the railway from Esquimalt to Nanaimo shall be commenced as soon as possible and completed with all practicable dispatch.

(b) "That \$2,000,000 a year, and not \$1,500,000, shall be the minimum expenditure on railway works within the Province from the date at which the surveys are sufficiently completed to enable that amount to be expended on construction. In naming this amount I understand that, it being alike the interest and the wish of the Dominion Government to urge on with all speed the completion of the works now to be undertaken, the annual expenditure will be as much in excess of the minimum of \$2,000,000 as in any year may be found practicable.

(c) "Lastly, that on or before the 31st December, 1890, the railway shall be completed and open for traffic from the Pacific seaboard to a point on the western end of Lake Superior, at which it will fall into connection with the existing lines of railway through a portion of the United States, and also with the navigation on Canadian waters. To proceed at present with the remainder of the railway extending, by the country northward of Lake Superior, to the existing Canadian lines, ought not, in my opinion, to be required, and the time for undertaking that work must be determined by the development of settlement and the changing circumstances of the country. The day is, how-



ever, I hope, not very far distant when a continuous line of railway through Canadian territory will be practicable, and I therefore look upon this portion of the scheme as postponed rather than abandoned."

5. That owing to the total disregard by the Dominion of these and other conditions contained in the Settlement so effected, the Legislative Assembly, early in the Session of 1876, unanimously passed an humble Address to Your Majesty, praying that Your Majesty would be graciously pleased to cause the Dominion Government to carry out the agreement above referred to.

6. That, in reply to the said Address, Your Majesty's said Secretary of State was pleased to advise the province to submit to railway construction being deferred until the spring of 1878, in order to enable the Dominion Government, during the year 1877, to solve some doubtful points connected with the railway route; and that the delay mentioned was conceded in deference to His Lordship's wishes, without prejudice, however, to the rights of the province.

7. That the Dominion Government having, up to the month of August, 1878, failed to commence railway construction in the province, the Legislative Assembly, on the 30th of August of the same year, further humbly addressed Your Majesty on the subject.

8. That, for the purpose of avoiding needless repetition, and of affording Your Majesty the fullest information on this subject Your Petitioners crave leave to refer Your Majesty to the contents of the above-mentioned Addresses presented to Your Majesty, and to the several documents therein referred to.

9. That, in the spring of 1880, the work of construction was commenced by the Dominion in the interior of the province, but not from its seaboard, or between Esquimalt and Nanaimo.

10. That it is believed that arrangements have lately been made between the Dominion and a syndicate, or company of capitalists, for the construction of the Canadian Pacific Railway by 1891; which arrangements include about 500 miles of railway north of Lake Superior, but exclude the section of 70 miles of railway between Esquimalt and Nanaimo.

11. That, under the Treaty of Union, it was expressly stipulated and agreed that railway construction should be commenced from the seaboard of the province; and under the Settlement effected in 1874, it was, as has been shown above, also expressly stipulated and agreed that the section of the railway between Esquimalt and Nanaimo should be constructed and completed with all practicable dispatch, and that construction of the line north of Lake Superior should be deferred until after the completion of the railway communication between the seaboard of the province and Lake Superior.

12. That, although the Dominion Government has never questioned the right or claim of the province to have the railway commenced from its seaboard, and has moreover acknowledged that the province is entitled to have the section of the line between Esquimalt and Nanaimo constructed, yet no provision has been made by them for the fulfilment of these portions of their railway obligations.

13. That, by the Treaty of Union, British Columbia was allowed to retain its own Tariff until the Canadian Pacific Railway should be completed, but believing in the good faith of the Dominion, and being desirous of promoting Confederation in its true sense, the Province surrendered its Tariff in 1872, and adopted the Tariff of the Dominion.

14. That, since the Province adopted this course, the Tariff of the Dominion has been largely increased, to the serious injury of British Columbia, upon whom increased burdens have been thereby placed without any of the compensating advantages which are, in consequence of such increase, enjoyed by the Eastern Provinces of the Dominion.

15. That the time originally agreed upon in the Treaty of Union, for constructing the Canadian Pacific Railway, will expire in July of this year without the terms thereof, as to railway construction, having been even approximately fulfilled, no portion of the Canadian Pacific Railway having up to the present time, been constructed and equipped in the Province.

16. That, under the circumstances herein and in the said Addresses set forth, Your Petitioners humbly pray—

- (a) That Your Majesty will be graciously pleased to cause the Dominion Government to be moved to carry out their Railway obligations to the Province, by providing for the immediate commencement and active prosecution of railway work on the section of the Canadian Pacific Railway lying between Esquimalt and Nanaimo, and by constructing the portion of line between Port Moody and Yale;
- (b) That the Province be permitted to regulate and collect its own Tariff of Customs and Excise until through communication by Railway be established through British Territory with the Eastern Provinces;
- (c) That in any event compensation be awarded by the Dominion to the Province for the losses inflicted upon the latter by reason of the breaches of agreements and delays herein referred to.

And your Petitioners, as in duty bound, will ever pray.

FREDCK. WILLIAMS,

*Speaker of Legislative Assembly.*

VICTORIA, BRITISH COLUMBIA, 25th March, 1881.

## SCHEDULE "J"

LETTER dated 5th May, 1883, from Hon. Joseph W. Trutch to the Hon. W. Smithe, in Sessional Papers of British Columbia, 1883 page 458.

VICTORIA, B.C., 5th May, 1883.

SIR,—I received, last night, a telegram from the Premier of Canada, conveying the following propositions, to be submitted without prejudice, for the consideration of the Government of British Columbia:—

1. The Government of British Columbia shall amend the Act (43 Victoria, Chapter 11) of 1880, granting certain lands, to the extent of twenty (20) miles on each side of the line of the Canadian Pacific Railway in British Columbia, on the Yellow Head Pass route, so that the same extent of land on each side of the line of the Railway through British Columbia wherever finally located, shall be conveyed to the Dominion Government, in lieu of the lands conveyed by the above Act.

2. The Government of British Columbia shall grant to the Government of Canada a portion of the lands set forth and described in the Act of British Columbia (45 Victoria, Chapter 15) entitled the "Vancouver Land and Railway Company," to be conveyed to the said Company for the purpose stated in the said Act, viz., the portion of the aforesaid lands commencing at the Southern boundary thereof and extending to a line running East and West, half way between Comox and Seymour Narrows, and also a further portion of the lands conveyed by the said Act to the Vancouver Land and Railway Company, to the North of and contiguous to the portion just before specified, equal in extent to the lands within the limits thereof which may have been alienated from the Crown by Crown grants or pre-emption right, or otherwise.



3. The Government of British Columbia shall convey to the Government of Canada three and a half millions of acres of land of fair quality in the Peace River District of British Columbia, in one rectangular block adjoining the Northwest Territory of Canada.

4. The Government of British Columbia shall procure the incorporation, by Act of their Legislature, of certain persons to be designated by the Government of Canada, for the construction of the railway from Esquimalt to Nanaimo.

The Government of Canada, on their part, shall—

1. Appropriate the lands on Vancouver Island, above provided to be conveyed to that Government and seven hundred and fifty thousand dollars (\$750,000), to be paid as the work proceeds to the Company to be incorporated by Act of the Legislature as above provided, such Company giving satisfactory security for the completion of the Railway from Esquimalt to Nanaimo within three and half ( $3\frac{1}{2}$ ) years from the date of their incorporation.

2. The Government of Canada shall purchase from the Government of British Columbia the Esquimalt Graving Dock, paying for the same, with all the lands, approaches, and appurtenances belonging thereto, the sum of two hundred and fifty thousand dollars (\$250,000), and shall complete and operate the same for their own benefit, receiving the Imperial appropriation therefor.

3. The Government of Canada shall, with all convenient speed, offer for sale the lands within the Railway Belt on the Mainland of British Columbia on Liberal terms to actual settlers; and

4. Shall give persons who have squatted on any of the said lands within the Railway Belt on the Mainland prior to this date, and have made substantial improvements thereon, a prior right of purchasing the lands so improved at the rates charged to settlers generally.

The Government of Canada submit these proposals upon the further stipulation that should they be approved by the Government of British Columbia, such acceptance shall be ratified by Act of the Legislature of British Columbia as in full of all claims whatsoever of the Government of British Columbia against the Government of Canada.

I have, &c.,

(Signed) JOSEPH W. TRUTCH,

*Agent of Canada for British Columbia.*

## SCHEDULE "K"

*REPORT of Committee of the Privy Council dated 9th May, 1883, in Sessional Papers of British Columbia, 1884, at page 157. Reference is also made to the correspondence from page 157 to 172.*

The said Order in Council is as follows:—

The Committee of the Privy Council have had under consideration a dispatch, dated 10th February, 1883, from the Lieutenant-Governor of British Columbia, setting forth that the British Columbia Government, as a basis of settlement between the Governments of the Dominion and the Province, of the Railway and the Railway Lands questions, urgently request:—

1. That the Dominion Government commence, at the earliest possible period, the construction of the Island Railway, and complete the same with all practicable dispatch, or by giving to the Province such fair compensation for failure to build such Island Railway as will enable the Government of the Province to build it as a Provincial work.

2. That the Dominion Government open the East Coast lands for settlement.

3. That the Dominion Government take over the Graving Dock at Esquimalt, upon such terms as shall recoup and relieve the Province of all expense in respect thereof, and to complete and operate it as a Federal work, or as a joint Imperial and Dominion work.

4. That the Provincial Government, in lieu of the lands within the railway belt alienated or otherwise rendered unavailable, set apart for the use of the Dominion Government a tract of land of 2,000,000 acres in extent, to be taken up in blocks of not less than 500,000 acres in such localities on the Mainland as may be agreed upon, the land to be taken up and defined within two years; upon condition that the Dominion Government in dealing with lands in the Province of British Columbia, shall establish a land system equally as liberal, both as to mining and agricultural industries, as that in force in the Province at the present time, and that there shall be no delay in throwing open the lands for settlement.

The Ministers of the Interior and Railways and Canals suggest inasmuch as a final and satisfactory adjustment of all differences is desirable, that the following propositions be made (without prejudice), to the Government of British Columbia:—

1A. The Provincial Government shall amend the Act of 1880, granting the 40 miles land belt on the Yellow Head Pass route, so as to appropriate that belt along the line of railway wherever it may be finally located through British Columbia.

2A. The Provincial Government shall grant to the Dominion Government the lands in Vancouver Island specified in Mr. Dunsmuir's last proposal for the construction of the Esquimalt and Nanaimo Railway.

3A. The Provincial Government shall transfer to the Dominion Government 3,500,000 acres of land of fair quality, in the Peace River District, on the East side of the Rocky Mountains and adjoining the North-West Territories, in one rectangular block.

4A. That the British Columbia Government shall procure an Act of Incorporation for such parties as shall be designated by the Dominion Government for the construction of the Railway on Vancouver Island.

1B. That the Dominion Government shall appropriate the lands on Vancouver Island and a sum of \$750,000, to be paid as the work proceeds, to a Company to be incorporated at their instance by the Legislature of British Columbia, and which company shall give satisfactory security for the completion of the Railway from Esquimalt to Nanaimo within four years from the date of the Act of Incorporation.

2B. That the Dominion Government shall purchase from the Government of British Columbia the Esquimalt Graving Dock, with all its lands, approaches, and appurtenances, for the sum of \$250,000, and shall complete and operate that work for their own benefit, receiving the appropriation of the Imperial Government therefor.

3B. That the Dominion Government shall, with all convenient speed, offer for sale the Railway Belt on the Mainland, on liberal terms to actual settlers.

4B. That the Dominion Government shall give persons who have, prior to this date, squatted upon lands in the Railway Belt on the main line, and made improvements thereon, a prior right of purchasing the lands so improved, at the same rates as shall be charged to settlers generally.

The Ministers also recommend that the Government of British Columbia be required, in case this proposal is adopted, to obtain an Act of ratification from the Legislature of British Columbia, declaring it accepted in full of all claims of every description.



The Committee concur in the foregoing Report and the recommendations made therein, and they advise that a copy of this Minute, when approved, be sent to the Lieutenant-Governor of British Columbia, for the information and action thereon of his Government.

(Signed) JOHN J. MCGEE.

## SCHEDULE "E"

MEMORANDUM of arrangement made at Victoria, on the twentieth day of August, 1883, relative to the various points remaining unsettled between the Government of the Dominion and that of the Province of British Columbia.—In Sessional Papers, British Columbia, 1884, page 201.

### 1. ISLAND RAILWAY

1. The Government of British Columbia will invite the adoption by the Legislature of the Province of certain amendments to the Act of 1883, entitled, "An Act relating to the Island Railway, the Graving Dock, and the Railway Lands of the Province," which amendments are indicated by red lines in the copy of the proposed new Bill hereto annexed, signed by Sir Alexander Campbell and Mr. Smith.

2. The Government of British Columbia will procure the assent of the Contractor for the construction of the Island Railway to the provisions of clause f of the agreement recited in the amending Bill.

3. Upon the amending Bill becoming law in British Columbia and the assent of the Contractor for the construction of the Railway to the provisions of clause f of the agreement recited in the Act being procured, the Government of the Dominion will seek the sanction of Parliament to measures to enable them to give effect to the stipulations on their part contained in the agreement recited in the amending Bill.

4. The contract shall be provisionally signed by Sir Alexander Campbell on behalf of the Minister of Railways and Canals, but is to be deposited with Mr. Trutch, awaiting execution by delivery until the necessary Legislative authority shall have been given, as well by the Parliament of the Dominion as by the Legislature of British Columbia.

### THE GRAVING DOCK

The Government of the Dominion shall take over the Graving Dock forthwith, and, upon Parliamentary sanction being given, complete it with all convenient speed, and thereafter operate it as a Dominion work, acquiring the right to the Imperial subsidy, and paying the Province of British Columbia, on the sanction aforesaid being given, the sums mentioned in clause g of the agreement recited in the amending Bill, and they will in the meantime pay out of the subsidy voted by Parliament to aid in the construction of the Dock, such sums as the Government of British Columbia may be entitled to receive under the existing agreement in regard to the moneys advanced thereon by them since the 27th of June, 1882; any sums so paid to be taken as part of the moneys going to British Columbia on Graving Dock account under the present arrangement, should it receive Legislative sanction on both sides as before mentioned, failing which the *statu quo* will be resumed.

### Railway Belt on Mainland

The Dominion Government will use every exertion to place their land in the Railway Belt on the mainland in the market at the earliest possible date, and for this purpose they will give all necessary instructions to their officers.

The Government of British Columbia, will, on their part render all the aid in their power and place all the information which they have in their Lands Department at the disposal of the Dominion officers, the expenses to be borne by the Dominion Government. In the meantime the land shall be open for "entry" to *bona fide* settlers in such lots and at such prices as the Dominion Government may fix.

### *The Judiciary*

The Order in Council fixing the residences of the Judges to be revoked—Mr. McCreight to be assigned to New Westminster, and Mr. Walkem to Kamloops. Legislative authority to be sought for, for this change, if necessary.

A County Court Judge shall be appointed by the Dominion Government for the District of Cariboo and Lillooet, at a salary of twenty-four hundred dollars, and he shall receive from the Local Government the appointment of Stipendiary Magistrate at a salary of five hundred dollars. Legislative authority for this arrangement, if necessary, and for the payment of the Judge to be sought for.

The above includes all matters as to which there is any dispute or difference between the Government of the Dominion and the Government of British Columbia, and, when carried into effect, will constitute a full settlement of all existing claims on either side or by either Government.

(Signed) A. CAMPBELL,  
WM. SMITH.

### SCHEDULE "M"

*CERTIFIED COPY of a Report of a Committee of the Honourable the Privy Council, approved by His Excellency the Governor General in Council, on the 27th September, 1883, in Sessional Papers (Dominion) 1884, pages 3 and 4.*

The Committee of the Privy Council have had under consideration a Report herewith, dated 25th September, 1883, from Sir Alexander Campbell, who was authorized by Orders of Your Excellency in Council, under dates of 14th and 23rd June last, to visit British Columbia to make arrangements relative to the various points remaining unsettled between the Government of the Dominion and that of the Province of British Columbia. The Committee concur in the said Report and the several matters proposed to be carried into effect, and they submit the same for Your Excellency's approval.

JOHN J. McGEE.

### SCHEDULE "N"

#### 47 VICT. CHAP. 6

*AN ACT respecting the Vancouver Island Railway, the Esquimalt Graving Dock, and certain Railway lands of the Province of British Columbia, granted to the Dominion.*

Whereas negotiations between the Governments of Canada and British Columbia have been recently pending, relative to delays in the commencement and construction of the Canadian Pacific Railway, and relative to the Vancouver Island Railway, the Esquimalt Graving Dock, and certain railway lands of the Province of British Columbia:

And whereas, for the purpose of settling all existing disputes and difficulties between the two Governments, it hath been agreed as follows:—

(a) The Legislature of British Columbia shall be invited to amend the Act number eleven, of one thousand eight hundred and eighty, intituled "An



Act to authorize the grant of certain public lands on the Mainland of British Columbia to the Government of the Dominion of Canada for Canadian Pacific Railway purposes," so that the same extent of land on each side of the line of railway through British Columbia, wherever finally settled, shall be granted to the Dominion Government in lieu of the lands conveyed by that Act:

(b) The Government of British Columbia shall obtain the authority of the Legislature to grant to the Government of Canada a portion of the lands set forth and described in the Act, number fifteen, of one thousand eight hundred and eighty-two, intituled "An Act to incorporate the Vancouver Land and Railway Company," namely, that portion of the said lands therein described, commencing at the southern boundary thereof and extending to a line running east and west, half-way between Comox and Seymour Narrows; and also a further portion of the lands conveyed by the said Act to the northward of and contiguous to that portion of the said lands last hereinbefore specified, equal in extent to the lands within the limits thereof which may have been alienated from the Crown by crown grants, pre-emption or otherwise:

(c) The Government of British Columbia shall obtain the authority of the Legislature to convey to the Government of Canada three and one-half millions of acres of land in the Peace River District of British Columbia, in one rectangular block, east of the Rocky Mountains and adjoining the Northwest Territories of Canada:

(e) The Government of Canada shall, upon the adoption by the Legislature of British Columbia of the terms of this agreement, seek the sanction of Parliament to enable them to contribute to the construction of a railway, from Esquimalt to Nanaimo, the sum of seven hundred and fifty thousand dollars, and they agree to hand over to the contractors who may build such railway the lands which are or may be placed in their hands for that purpose by British Columbia; and they agree to take security, to the satisfaction of the Government of that Province, for the construction and completion of such railway on or before the tenth day of June, one thousand eight hundred and eighty-seven—such construction to commence forthwith:

(h) The Government of Canada shall, with all convenient speed, offer for sale the lands within the railway belt upon the mainland, on liberal terms to actual settlers:

(k) This agreement is to be taken by the Province in full of all claims up to this date by the Province against the Dominion, in respect of delays in the commencement and construction of the Canadian Pacific Railway, and in respect of the non-construction of the Esquimalt and Nanaimo Railway, and shall be taken by the Dominion Government in satisfaction of all claims for additional lands under the terms of Union, but shall not be binding unless and until the same shall have been ratified by the Parliament of Canada and the Legislature of British Columbia.

Therefore Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The hereinbefore recited agreement is hereby approved and ratified.

#### THE CANADIAN PACIFIC RAILWAY BELT

11. The lands granted to Her Majesty, represented by the Government of Canada, in pursuance of the eleventh section of the Terms of Union, by the Act of the Legislature of the Province of British Columbia, number eleven of one thousand eight hundred and eighty, intituled "An Act to authorize the grant of certain public lands on the mainland of British Columbia to the Government of the Dominion of Canada for Canadian Pacific Railway purposes," as amended

by the Act of the said Legislature, assented to on the nineteenth day of December, one thousand eight hundred and eighty-three, as aforesaid, intituled "An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province," shall be placed upon the market at the earliest date possible, and shall be offered for sale on liberal terms to actual settlers;

2. The said lands shall be open for entry to bona fide settlers in such lots and at such prices as the Governor in Council may determine.

4. The Governor in Council may, from time to time, regulate the manner in which and terms and conditions on which the said lands shall be surveyed, laid out, administered, dealt with and disposed of: Provided, that the regulations respecting the sale, leasing or other disposition of such lands shall not come into force until they are published in the Canada Gazette:

#### LANDS IN THE PEACE RIVER DISTRICT OF BRITISH COLUMBIA

12. The three and one-half million acres of lands in that portion of the Peace River District of British Columbia, lying east of the Rocky Mountains, and adjoining the North-West Territories of Canada, granted to Her Majesty, as represented by the Government of Canada, by the said Act assented to on the nineteenth day of December, one thousand eight hundred and eighty-three, as aforesaid, intituled "An Act relating to the Island Railway, the Graving Dock and Railway Lands of the Province," and to be located by the said Government in one rectangular block, shall be held to be Dominion lands within the meaning of the "Dominion Lands Act, 1883."

#### SCHEDULE "O"

#### 47 VICT. CHAP. 14

#### AN ACT relating to the *Island Railway, the Graving Dock, and Railway Lands of the Province.*

WHEREAS negotiations between the Governments of Canada and British Columbia have been recently pending, relative to delays in the commencement and construction of the Canadian Pacific Railway, and relative to the Island Railway, the Graving Dock, and the Railway Lands of the Province:

AND WHEREAS for the purpose of settling all existing disputes and difficulties between the two Governments, it hath been agreed as follows:—

(a) The Legislature of British Columbia shall be invited to amend the Act No. 11 of 1880 intituled "An Act to authorize the grant of certain Public Lands on the Mainland of British Columbia to the Government of the Dominion of Canada for Canadian Pacific Railway purposes," so that the same extent of land on each side of the line of Railway through British Columbia, wherever finally settled, shall be granted to the Dominion Government in lieu of the lands conveyed by that Act.

(c) The Government of British Columbia shall obtain the authority of the Legislature to convey to the Government of Canada three and one-half millions of acres of land in the Peace River district of British Columbia, in one rectangular block, East of the Rocky Mountains, and adjoining the North-West Territory of Canada.

(h) The Government of Canada shall, with all convenient speed, offer for sale the lands within the Railway belt upon the Mainland, on liberal terms to actual settlers; and

(i) Shall give persons who have squatted on any of the said lands within the Railway belt on the Mainland, prior to the passing of this Act, and who



have made substantial improvements thereon, a prior right of purchasing the lands so improved, at the rates charged to settlers generally.

(k) This agreement is to be taken by the Province in full of all claims up to this date by the Province against the Dominion, in respect of delays in the commencement and construction of the Canadian Pacific Railway, and in respect of the non-construction of the Esquimalt and Nanaimo Railway, and shall be taken by the Dominion Government in satisfaction of all claims for additional lands under the Terms of Union, but shall not be binding unless and until the same shall have been ratified by the Parliament of Canada and the Legislature of British Columbia.

And whereas it is expedient that the said agreement should be ratified, and that provision should be made to carry out the terms thereof:

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

1. The hereinbefore recited agreement shall be and is hereby ratified and adopted.

2. Section 1 of the Act of the Legislature of British Columbia, No. 11 of 1880, intituled "An Act to authorize the grant of certain public lands on the mainland of British Columbia to the Government of the Dominion of Canada for Canadian Pacific Railway purposes," is hereby amended so as to read as follows:—

From and after the passing of this Act there shall be, and there is hereby granted to the Dominion Government for the purpose of constructing and to aid in the construction of the portion of the Canadian Pacific Railway on the mainland of British Columbia, in trust, to be appropriated as the Dominion Government may deem advisable, the public lands along the line of the railway before mentioned, wherever it may be finally located, to a width of twenty miles on each side of the said line as provided in the Order in Council, section 11, admitting the Province of British Columbia into Confederation; but nothing in this section contained shall prejudice the right of the Province to receive and be paid by the Dominion Government the sum of \$100,000 per annum, in half-yearly payments in advance, in consideration of the lands so conveyed, as provided in Section 11 of the Terms of Union: Provided always that the line of Railway before referred to, shall be one continuous line of Railway only, connecting the seaboard of British Columbia with the Canadian Pacific Railway, now under construction on the East of the Rocky Mountains.

7. There is hereby granted to the Dominion Government three and a half million acres of land in that portion of the Peace River District of British Columbia lying East of the Rocky Mountains and adjoining the North-West Territory of Canada, to be located by the Dominion in one rectangular block.

### SCHEDULE "P"

ORDER IN COUNCIL of *Executive Council of British Columbia, dated 17th February, 1926.*

Copy of Minute  
Approved

Feb. 17, 1926.

The undersigned has the honour to report:

1. That certain Terms of Unions whereby the Colony of British Columbia entered the Confederation of Canadian Provinces, were approved by her late Majesty Queen Victoria at the Court at Windsor by Order-in-Council, on the 16th day of May, 1871, pursuant to the provisions of the British North America Act.

2. That under the provisions of paragraph eleven of the said Terms of Union, the Government of the Province of British Columbia agreed "to convey to the Dominion Government, *in trust*, to be appropriated in such manner as the Dominion Government may deem advisable in furtherance of the construction of the said railway (meaning the railway previously mentioned) *a similar extent of public lands* along the line of railway throughout its entire length in British Columbia, *not to exceed however twenty miles on each side of the said line, as may be appropriated for the same purpose by the Dominion Government from the public lands in the North West Territories and the Province of Manitoba.*"

3. That at the time of the negotiations of the Terms of Union it was the avowed policy of the Government of the Dominion to secure the construction of the railway referred to through the medium of a railway company subsidized by the Government of the Dominion with large grants of land and small grants of money and that "it was not the intention of the Government to burden the Exchequer much to obtain this railway." The Terms of Union were based on the policy of the Dominion Government as herein outlined, but, that policy was materially changed to the disadvantage of British Columbia in that the construction of the railway was secured by:

(a) the expenditure of large sums (approximately \$63,000,000) of public monies in both surveys and construction, thus placing a heavy burden upon the Exchequer, and contrary to the avowed Policy of the Dominion Government, upon which policy the Terms of Union were based;

(b) the granting in furtherance of the construction of the railway public lands less than one-half of the amount or area as set out in the declaration of the policy of the Dominion Government at the time when Terms of Union were being negotiated and upon which declared policy of the Dominion Government the Terms of Union were based.

4. That the union of the Colony of British Columbia with the other Provinces of Canada was authorized by Section 146 of the British North America Act of 1867, subject to terms and conditions approved of by the late Queen's Most Excellent Majesty; and such terms as Her Majesty approved of are contained in the said Order-in-Council of the 16th of May, 1871, and no other.

5. That by Section 146 of the British North America Act the provisions of the said Order-in-Council, including the conditions stated in the accompanying Terms of Union, were given effect as if they had been enacted by the Parliament of the United Kingdom; and they could not be varied by any Act of the Parliament of the Dominion or the Legislature of the Province, or in any way short of an Act of the Parliament of the United Kingdom.

6. That public lands of the Province of British Columbia vastly in excess of the lands required to be conveyed by the Terms of Union have been conveyed to the Government of the Dominion.

7. That the lands conveyed in excess of the Terms of Union appear to have been so conveyed through a misunderstanding or misinterpretation of the said Terms of Union.

8. That the lands conveyed in excess appear to approximate upwards of 9,000,000 acres.

9. That at the time of the negotiations of the Terms of Union it was intended that public lands in the Provinces of Ontario, Manitoba, British Columbia and the North West Territories would be appropriated in furtherance of the construction of the railway, and it was on such intention that the Terms of Union were based, whereas the actual result is that only public lands in the North West Territories have been appropriated and used in furtherance of railway construction, and that the lands conveyed by the Province of British Columbia to the Dominion Government do not appear to have been used in



furtherance of railway construction as contemplated by the Terms of Union, and further that no public lands in Ontario or Manitoba were appropriated or used in furtherance of railway construction as intended by the Dominion Government at the time when the Terms of Union were negotiated, and which intentions were the groundwork upon which the Terms of Union were based.

10. That as the public monies expended by the Government of the Dominion in railway surveys and railway construction, as well as the public lands in the North West Territories appropriated by the Dominion Government in furtherance of railway construction, were the common property of the whole of the people of Canada, including British Columbia, and further that no other Province of Canada (as a Province) was required to, or as a fact, did contribute either money or land in furtherance of the construction of the railway, it appears to be only just and right that (the basis upon which the Terms of Union having been swept away or materially changed) British Columbia should be placed upon an equality with the other Provinces of Canada in respect to the construction of the Canadian Pacific Railway by having the lands mistakenly conveyed to the Dominion Government restored to the Province of British Columbia.

AND TO RECOMMEND that the foregoing report be adopted.

AND TO FURTHER RECOMMEND that the Government of the Dominion be respectfully requested to take such steps as may be necessary to reconvey to the Province of British Columbia the lands purporting to have been conveyed to the Dominion in sequence to the Terms of Union.

AND THAT a certified copy of this Minute of Council, if approved, be forwarded to the Honourable the Secretary of State at Ottawa for transmission to His Excellency the Governor-General in Council.

DATED this 16th day of February, A.D. 1926.

"JOHN OLIVER"

*Premier.*

APPROVED this 16th day of February, A.D. 1926.

"JOHN OLIVER"

*Presiding Officer of the Executive Council.*















